



The Gazette of India.

PUBLISHED BY AUTHORITY.

CALCUTTA, SATURDAY, JANUARY 2, 1909.

Separate paging is given to this Part in order that it may be filed as a separate compilation.

PART III.

Advertisements and Notices by Private Individuals and Corporations.

Lost.

The undermentioned Interest Warrant issued in my name, No. 91160, dated 12th August 1908, 3½ per cent. of 1854-55 for R76-11-6, favouring Anant Ram.

The payment of the Warrant has been stopped in the Government Account Department of the Bank of Bengal and application for Duplicate of the Warrant is about to be made to the Public Debt Office, Bank of Bengal, Calcutta.

Name—ANANT RAM,
Address—Baripar Street, Panipat.

Lost.

The Government Promissory Note No. 040969 of the 3 per cent. of 1896-97 for R500 originally standing in the name of the Bank of Bengal and last endorsed to Rustomji Jamsetji Dastur and Kavasha Rastomji Dastur or either of them the proprietors, by whom it was never endorsed to any other person, having been lost, notice is hereby given that payment of the above note and the interest thereupon have been stopped at the Public Debt Office, Bank of Bengal, Calcutta, and that application is about to be made for the issue of Duplicate in favour of the proprietors. The public are cautioned against purchasing or otherwise dealing with the abovementioned security.

Name of the advertisers—RUSTOMJI JAMSETJI DASTUR.
KAVASHA RUSTOMJI DASTUR.
Residence—Daria Mahel, Surat.

The 10th December 1908.

In the Court of Muhamad Sarfaraz Khan, M.A., District Judge, Bannu.

(Insolvency Jurisdiction.)

In the matter of the insolvency of Abdul Rahman, son of Chand Mall, caste Shekh of Lalozai, Bannu Tahsil.

It is hereby notified under section 347 of the Civil Procedure Code that an application filed by Abdul Rahman for being adjudicated an insolvent has been admitted in this Court and that it will be heard on 19th January 1908.

MUHAMAD SARFARAZ KHAN,
District Judge.

Dated the 11th December 1908.



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CALCUTTA, SATURDAY, JANUARY 9, 1909.

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PART III.

Advertisements and Notices by Private Individuals and Corporations.

Lost.

The Government Promissory Note No. 040969 of the 3 per cent. of 1896-97 for Rs500 originally standing in the name of the Bank of Bengal and last endorsed to Rustomji Jamsetji Dastur and Kavasha Rastomji Dastur or either of them the proprietors, by whom it was never endorsed to any other person, having been lost, notice is hereby given that payment of the above note and the interest thereupon have been stopped at the Public Debt Office, Bank of Bengal, Calcutta, and that application is about to be made for the issue of Duplicate in favour of the proprietors. The public are cautioned against purchasing or otherwise dealing with the abovementioned security.

Name of the advertisers—RUSTOMJI JAMSETJI DASTUR,
KAVASHA RUSTOMJI DASTUR.
Residence—Daria Mahel, Surat.

The 10th December 1908.

UNCOVENANTED SERVICE FAMILY PENSION FUND.

NOTICE.

The Seventy-first Annual General Meeting of subscribers to the above Fund will be held in the Town Hall on Saturday, the 30th January 1909, at 3 P.M., (1) to receive the Report of the Directors ; (2) to lay before the Meeting the Books of the Fund together with an abstract statement of the accounts, and a list of subscribers and incumbents, in accordance with Fund Rule 58 ; (3) to fill by Election, under Rule 5, the three vacancies caused by the retirement by Rotation of three Directors ; and (4) to elect Auditors for the ensuing year, as required by Rule 8.

By order of Directors,

RIVERS HOWE,
Secretary.

CALCUTTA ;
The 23rd December 1908.



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CALCUTTA, SATURDAY, JANUARY 23, 1909.

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PART III.

Advertisements and Notices by Private Individuals and Corporations.

Lost.

The Government Promissory Note No. 182243 of the $3\frac{1}{4}$ per cent. of 1865 for Rs. 1,000 originally standing in the name of Suresh Chandra Mukerjee, Administrator of Mokhoda Dabee, the proprietor, by whom it was never endorsed to any other person, having been lost, notice is hereby given that payment of the above Note and the interest thereupon have been stopped at the Public Debt Office, Bank of Bengal, Calcutta, and that application is about to be made for the issue of duplicate in favour of the proprietor. The public are cautioned against purchasing or otherwise dealing with the abovementioned security.

Name of Advertiser—SURESH CHANDRA MUKERJEE,
Administrator of—MOKHODA DABEE.
Residence—Halisahar, Baruiparah Thana Naihati, 24-Pergannas.

Lost.

The lower half of the Government Promissory Note No. $\frac{065435}{189471}$ of the $3\frac{1}{4}$ per cent. loan of 1865 for Rs. 500 (five hundred) only originally standing in the name of Denomayee Dabee Chawdhurani and Janakee Dabee Chawdhurani, the proprietors, by whom it was never endorsed to any other person, having been lost notice is hereby given that payment of the above Note and the interest thereupon have been stopped at the Public Debt Office, Bank of Bengal, Calcutta, and that application is about to be made for the issue of duplicate in favour of Purna Chandra Roy Chawdhury, Srish Chandra Banerji and Jatish Chandra Banerji, certificate holders Estate Denomayee Dabee Chawdhurani and Jankee Dabee Chawdhurani deceased.

The public are cautioned against purchasing or otherwise dealing with the above mentioned security.

Name of the Advertisers—
Purna Chandra Roy Chowdhury.
Srish Chandra Banerji.
Jatish Chandra Banerji.
Residence—Gopalpur, Shyanpur P. O., Rangpur.

UNCOVENANTED SERVICE FAMILY PENSION FUND.

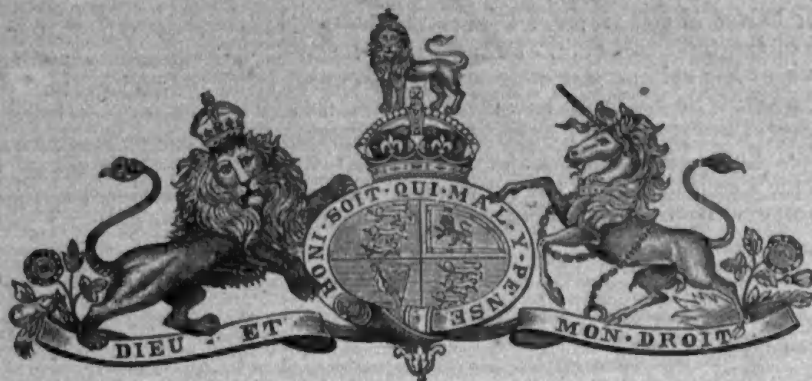
NOTICE.

The Seventy-first Annual General Meeting of subscribers to the above Fund will be held in the Town Hall on Saturday, the 30th January, 1909, at 3 P.M., (1) to receive the Report of the Directors ; (2) to lay before the Meeting the Books of the Fund together with an abstract statement of the accounts, and a list of subscribers and incumbents, in accordance with Fund Rule 58 ; (3) to fill by Election, under Rule 5, the three vacancies caused by the retirement by Rotation of three Directors ; and (4) to elect Auditors for the ensuing year, as required by Rule 8.

By order of Directors,

RIVERS HOWE,
Secretary.

CALCUTTA ;
The 23rd December 1908.



The Gazette of India.

PUBLISHED BY AUTHORITY.

CALCUTTA, SATURDAY, JANUARY 30, 1909.

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PART III.

Advertisements and Notices by Private Individuals and Corporations.

Lost.

The Government Promissory Note No. 182243 of the $3\frac{1}{4}$ per cent. of 1865 for Rs. 1,000 originally standing in the name of Suresh Chandra Mukerjee, Administrator of Mokhoda Dabee, the proprietor, by whom it was never endorsed to any other person, having been lost, notice is hereby given that payment of the above Note and the interest thereupon have been stopped at the Public Debt Office, Bank of Bengal, Calcutta, and that application is about to be made for the issue of duplicate in favour of the proprietor. The public are cautioned against purchasing or otherwise dealing with the abovementioned security.

Name of Advertiser—SURESH CHANDRA MUKERJEE,

Administrator of—MOKHODA DABEE.

Residence—Halisahar, Baruiparah Thana Naihati, 24-Pergannas.

Lost.

The lower half of the Government Promissory Note No. $\frac{065435}{189471}$ of the $3\frac{1}{4}$ per cent. loan of 1865 for Rs. 500 (five hundred) only originally standing in the name of Denomayee Dabee Chawdhurani and Janakee Dabee Chawdhurani, the proprietors, by whom it was never endorsed to any other person, having been lost, notice is hereby given that payment of the above Note and the interest thereupon have been stopped at the Public Debt Office, Bank of Bengal, Calcutta, and that application is about to be made for the issue of duplicate in favour of Purna Chandra Roy Chawdhury, Srish Chandra Banerji and Jatish Chandra Banerji, certificate holders Estate Denomayee Dabee Chawdhurani and Jankee Dabee Chawdhurani deceased.

The public are cautioned against purchasing or otherwise dealing with the abovementioned security.

Name of the Advertisers—
PURNA CHANDRA ROY CHOWDHURY.
SRISH CHUNDRA BANERJI.
JATISH CHANDRA BANERJI.

Residence—Gopalpur, Shyanpur P. O., Rangpur.

Lost.

Lower halves of Government Promissory Notes Nos. 034641 and 034640 of the 30th June 1896 of the three per cent. of 1896-97 for Rs500 each, originally standing in the name of the Bank of Bengal and last endorsed to Surendra Nath Banerjee, the proprietor, by whom it was never endorsed to any other person having been lost, notice is hereby given that payment of the above note and the interest thereupon have been stopped at the *Public Debt Office*, Bank of Bengal, Calcutta, and that application is about to be made for the issue of duplicate in favour of the proprietor. The public are cautioned against purchasing or otherwise dealing with the abovementioned securities.

SURENDRA NATH BANERJEE,
No. 25, Panchanantola Road, Howrah.



The Gazette of India.

PUBLISHED BY AUTHORITY.

CALCUTTA, SATURDAY, FEBRUARY 6, 1909.

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PART III.

Advertisements and Notices by Private Individuals and Corporations.

Lost.

The lower half of the Government Promissory Note No. $\frac{065435}{189471}$ of the $3\frac{1}{4}$ per cent loan of 1865 for Rs500 (five hundred) only originally standing in the name of Denomayee Dabee Chawdhurani and Janakee Dabee Chawdhurani, the proprietors, by whom it was never endorsed to any other person, having been lost, notice is hereby given that payment of the above Note and the interest thereupon have been stopped at the Public Debt Office, Bank of Bengal, Calcutta, and that application is about to be made for the issue of duplicate in favour of Purna Chandra Roy Chawdhury, Srish Chandra Banerji and Jatish Chandra Banerji, certificate holders, Estate Denomayee Dabee Chawdhurani and Jankee Dabee Chawdhurani deceased.

The public are cautioned against purchasing or otherwise dealing with the above-mentioned security.

Name of the Advertisers—
{ PURNA CHANDRA ROY CHOWDHURY.
SRISH CHUNDRA BANERJI.
JATISH CHANDRA BANERJI.
Residence—Gopalpur, Shyanpur P. O., Rangpur.

Lost.

Lower halves of Government Promissory Notes Nos. 034641 and 034640 of the 30th June 1896 of the three per cent. of 1896-97 for Rs500 each, originally standing in the name of the Bank of Bengal and last endorsed to Surendra Nath Banerjee, the proprietor, by whom it was never endorsed to any other person, having been lost, notice is hereby given that payment of the above note and the interest thereupon have been stopped at the *Public Debt Office*, Bank of Bengal, Calcutta, and that application is about to be made for the issue of duplicate in favour of the proprietor. The public are cautioned against purchasing or otherwise dealing with the abovementioned securities.

SURENDRA NATH BANERJEE,
No. 25, Panchanantola Road, Howrah.

Lost.

The Government Promissory Note No. 031826 for Rs500 of 3 per cent. loan of 1896-97 lastly endorsed to Ganeshi Lal by whom it was never endorsed to any person having been lost, notice is hereby given that the payment of the above note with interest due thereon has been stopped.

GANESHI LAL,
Contractor.

AMBALA CANTONMENT;
17th January 1909.



The Gazette of India.

PUBLISHED BY AUTHORITY.

CALCUTTA, SATURDAY, FEBRUARY 13, 1909.

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PART III.

Advertisements and Notices by Private Individuals and Corporations.

Lost.

Lower halves of Government Promissory Notes Nos. 034641 and 034640 of the 30th June 1896 of the three per cent. of 1896-97 for Rs500 each, originally standing in the name of the Bank of Bengal and last endorsed to Surendra Nath Banerjee, the proprietor, by whom it was never endorsed to any other person, having been lost, notice is hereby given that payment of the above note and the interest thereupon have been stopped at the *Public Debt Office*, Bank of Bengal, Calcutta, and that application is about to be made for the issue of duplicate in favour of the proprietor. The public are cautioned against purchasing or otherwise dealing with the abovementioned securities.

SURENDRA NATH BANERJEE,
No. 25, Panchanantola Road, Howrah.

Lost.

The Government Promissory Note No. 031826 for Rs500 of 3 per cent. loan of 1896-97 lastly endorsed to Ganeshi Lal by whom it was never endorsed to any person having been lost, notice is hereby given that the payment of the above note with interest due thereon has been stopped.

GANESHI LAL,
Contractor.

AMBALA CANTONMENT;
17th January 1909.

Lost.

The Government Promissory Notes Nos. M001374, M001418, M002054, M002768 of 1896-97 for Rs. 500 each originally standing in the names of (1) N. Moonosawmy Moodr., (2) The Mercantile Bank of India, Limited, (3) The Bank of Madras, (4) The Madras Railway Company and last endorsed to V. Govindaraja Mudaliar, the Proprietor, by whom they were never endorsed to any other person having been lost, notice is hereby given that payment of the above notes and the interest thereupon have been stopped at the Public Debt Office, Bank of Bengal, Calcutta, and that application is about to be made for the issue of Duplicates in favour of the Proprietor. The public are cautioned against purchasing or otherwise dealing with the above mentioned securities.

V. GOVINDARAJA MUDALIAR,
Vinayaga Villa, Vepery, Madras.



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CALCUTTA, SATURDAY, FEBRUARY 20, 1909.

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PART III.

Advertisements and Notices by Private Individuals and Corporations.

Lost.

The Government Promissory Note No. 031826 for Rs500 of 3 per cent. loan of 1896-97 lastly endorsed to Ganeshi Lal by whom it was never endorsed to any person having been lost, notice is hereby given that the payment of the above note with interest due thereon has been stopped.

GANESHI LAL,
Contractor.

AMBALA CANTONMENT;
17th January 1909.

Lost.

The Government Promissory Notes Nos. Moo1374, Moo1418, Moo2054, Moo2768 of 1896-97 for Rs. 500 each originally standing in the names of (1) N. Moonoosawmy Moodr., (2) The Mercantile Bank of India, Limited, (3) The Bank of Madras, (4) The Madras Railway Company and last endorsed to V. Govindaraja Mudaliar, the Proprietor, by whom they were never endorsed to any other person having been lost, notice is hereby given that payment of the above notes and the interest thereupon have been stopped at the Public Debt Office, Bank of Bengal, Calcutta, and that application is about to be made for the issue of Duplicates in favour of the Proprietor. The public are cautioned against purchasing or otherwise dealing with the above mentioned securities.

V. GOVINDARAJA MUDALIAR,
Vinayaga Villa, Vepery, Madras.

UNCOVENANTED SERVICE FAMILY PENSION FUND.

NOTICE.

Notice is hereby given that in pursuance of a requisition of twelve qualified subscribers to the Uncovenanted Service Family Pension Fund (resident in England) a special meeting of the subscribers to the Fund will be held in the Town Hall on Saturday, the 12th June 1909, at 3 P.M., to consider the advisability of referring again to the general body of subscribers the revision and amendment of the proviso added to Rule 54 by circular No. 1 of the 10th April 1907.

Under the above proviso every subscriber's share of surplus at the commencement of each year was restricted to an amount not exceeding his registered annual subscription, any surplus in excess of this limit being held over for addition to the surplus to be distributed in the following year, instead of being available for refund to the subscriber concerned in cash or for enhancement of the pension assured.

The requisitionists propose that the above proviso be repealed in view to a reversion to the practice of treating excess surplus as available for refund in cash or for enhancement of the pension assured.

Subscribers who cannot attend the above meeting have the right to vote by proxy, the votes to be valid should be stamped with a one-anna stamp and registered in this office not later than the 9th June 1909.

RIVERS HOWE,
Secretary.

52-3, Park Street,
Calcutta ;

The 18th February 1909.

IN THE COURT OF THE ASSISTANT COMMISSIONER AND SUB-JUDGE, 1ST CLASS,
BEAWAR.

In the matter of the Indian Companies Act, VI of 1882, of the Jaikishen Dass Manufacturing Company, Limited, Beawar.

Notice is hereby given that a petition for the winding up of the above named company by the Court was on the 13th day of January 1909 presented to the Court of the Assistant Commissioner, Merwara, by Munshi Mohammed Jamal of Beawar, a contributory of the said Company. And that it has been directed that the said petition shall be heard before the said Court on the 3rd day of March 1909 and any creditor or contributory of the said Company desirous to oppose the making of an order for the winding up of the said Company under the above Act should appear at the time of hearing, by himself or his advocate, attorney or pleader for that purpose ; and a copy of petition will be furnished to any creditor or contributory of the said Company requiring the same on application to this Court on payment of the charges for the same.

Munshi Mohammed Jamal of Beawar in person, a contributory of the Jaikishen Dass Manufacturing Company, Limited, Beawar.

H. R. N. PRITCHARD, Captain,
Assistant Commissioner and Sub-Judge, 1st class, Merwara.



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CALCUTTA, SATURDAY, FEBRUARY 27, 1909.

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PART III.

Advertisements and Notices by Private Individuals and Corporations.

Lost.

The Government Promissory Notes Nos. Moo1374, Moo1418, Moo2054, Moo2768 of 1896-97 for Rs. 500 each originally standing in the names of (1) N. Moonosawmy Moodr., (2) The Mercantile Bank of India, Limited, (3) The Bank of Madras, (4) The Madras Railway Company and last endorsed to V. Govindaraja Mudaliar, the Proprietor, by whom they were never endorsed to any other person having been lost, notice is hereby given that payment of the above notes and the interest thereupon have been stopped at the Public Debt Office, Bank of Bengal, Calcutta, and that application is about to be made for the issue of Duplicates in favour of the Proprietor. The public are cautioned against purchasing or otherwise dealing with the above mentioned securities.

V. GOVINDARAJA MUDALIAR,
Vinayaga Villa, Vepery, Madras.

Stolen.

Government Promissory Note No. 073860 of the 3½ per cent. Loan of 1900-01 for Rs. 500 (Rupees five hundred) only, originally standing in the name of Thackersey Goculdas & Premji Gokuldas or either, and last endorsed to Ramrao Ganesh Vaidya, the proprietor by whom it was never endorsed to any other person, having been stolen, notice is hereby given that the payment of the above note and the interest thereupon have been stopped at the Public Debt Office, Bank of Bengal, Calcutta, and that application is about to be made for the issue of duplicate in favour of the proprietor. The public are cautioned against purchasing or otherwise dealing with the abovementioned Security.

Name of the Advertiser—RAMRAO GANESH VAIDYA.
Residence—No. 47, Khotachi Wadi, Girgaum, Bombay.

In the Matter of the Companies Act 1862 to 1907

and

In the Matter of Stone Robson & Company, Limited.

Notice is hereby given that the Creditors of the abovenamed Company, which is being voluntarily wound up, are required on or before the 31st day of March 1909, being the day for that purpose fixed by the undersigned, to send their names and addresses and the particulars of their debts or claims and the names and addresses of their Solicitors if any to Henry Holton Sturges, Chartered Accountant (of Harber Sturges and Fraser), Guildhall Chambers, Basinghall Street, London E.C., the Liquidator of the said Company, and if so required by notice in writing from the said Liquidator are by their Solicitors to come in and prove their said debts or claims at such time and place as shall be specified in such notice or in default thereof they will be excluded from the benefit of any distribution made before such debts are proved.

Dated this 2. st day of January 1909.

FORD LLOYD BARTLETT & MICHELMORE,
38, Bloomsbury Square, London, W.C.,
Solicitors to the above named Liquidator.

UNCOVENANTED SERVICE FAMILY PENSION FUND.

NOTICE.

Notice is hereby given that in pursuance of a requisition of twelve qualified subscribers to the Uncovenanted Service Family Pension Fund (resident in England) a special meeting of the subscribers to the Fund will be held in the Town Hall on Saturday, the 12th June 1909, at 3 P.M., to consider the advisability of referring again to the general body of subscribers the revision and amendment of the proviso added to Rule 54 by circular No. 1 of the 10th April 1907.

Under the above proviso every subscriber's share of surplus at the commencement of each year was restricted to an amount not exceeding his registered annual subscription, any surplus in excess of this limit being held over for addition to the surplus to be distributed in the following year, instead of being available for refund to the subscriber concerned in cash or for enhancement of the pension assured.

The requisitionists propose that the above proviso be repealed in view to a reversion to the practice of treating excess surplus as available for refund in cash or for enhancement of the pension assured.

Subscribers who cannot attend the above meeting have the right to vote by proxy, the votes to be valid should be stamped with a one-anna stamp and registered in this office not later than the 9th June 1909.

RIVERS HOWE,
Secretary.

52-3, Park Street,
Calcutta ;
The 18th February 1909.



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CALCUTTA, SATURDAY, MARCH 13, 1909.

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PART III.

Advertisements and Notices by Private Individuals and Corporations.

Stolen.

Government Promissory Note No. 073860 of the $3\frac{1}{4}$ per cent. Loan of 1900-01 for Rs500 (Rupees five hundred) only, originally standing in the name of Thackersey Goculdas & Premji Gokuldas or either, and last endorsed to Ramrao Ganesh Vaidya, the proprietor, by whom it was never endorsed to any other person, having been stolen, notice is hereby given that the payment of the above note and the interest thereupon have been stopped at the Public Debt Office, Bank of Bengal, Calcutta, and that application is about to be made for the issue of duplicate in favour of the proprietor. The public are cautioned against purchasing or otherwise dealing with the abovementioned Security.

Name of the Advertiser—RAMRAO GANESH VAIDYA.
Residence—No. 47, Khotachi Wadi, Girgaum, Bombay.

Lost.

The Government Promissory Note No. 061019 of the $3\frac{1}{4}$ per cent. of 1900-01 for Rs500 (five hundred only) originally standing in the name of The Bank of Bombay, and last endorsed to Nuservanji Cursetji Kias or Avabai Nuservanji Kias or either of them, the proprietors, by whom it was never endorsed to any other person, having been lost, notice is hereby given that payment of the above Note and the interest thereupon have been stopped at the Public Debt Office, Bank of Bengal, Calcutta, and that application is about to be made for the issue of duplicate in favour of the proprietors. The public are cautioned against purchasing or otherwise dealing with the abovementioned Security.

Name of the Advertiser—NUSERVANJI CURSETJI KIAS.
Residence—207, Barah Bazar Street, Fort Bombay.

Lost or Stolen.

The lower halves of the Government Promissory Notes Nos. 016922 and 089342 of the 3½ per cent. loans of 1900-01 and 1854-55 respectively for Rs500 each originally standing in the name of Hari Dass Sreemaney and the Bank of Bengal respectively and last endorsed to Agabeg Brothers, the proprietors, by whom they were never endorsed to any other person, having been lost, or stolen, notice is hereby given that payment of the above Notes and the interest thereupon have been stopped at the Public Debt Office, Bank of Bengal, Calcutta, and that application is about to be made for the issue of Duplicates in favour of the proprietors. The public are cautioned against purchasing or otherwise dealing with the abovementioned securities.

Name of the Advertiser—AGABEG BROTHERS, JOGTA COLLIERY.
P. O. Sejua, Manbhoom.

Lost or Stolen.

The Government Promissory Note No. 082062 of the 3½ per cent. of 1900-01 for Rs25,000 originally standing in the name of Bank of Bengal and last endorsed to Tejpal Jumna Dass, the proprietor, by whom it was never endorsed to any other person but was endorsed in blank, having been lost, stolen, or destroyed, notice is hereby given that payment of the above Note and the interest thereupon have been stopped at the Public Debt Office, Bank of Bengal, Calcutta, and that application is about to be made for the issue of Duplicate in favour of the proprietor. The public are cautioned against purchasing or otherwise dealing with the above mentioned security.

Name of the Advertiser.—Tejpal Jamna Das.
Residence.—No. 95, Lower Chitpur Road, Calcutta.

Copy of the Resolution adopted by the subscribers to the Hindu Family Annuity Fund, Calcutta, at the annual general meeting held on the 30th January 1909.

That the Directors be authorised to draw in the manner laid down in Rule 73, Rs62,259, sixty-two thousand two hundred and fifty-nine only, from the Deposit Account with the Government of India to meet the expenditure provided in the Budget Estimate for the year 1909-1910.

AMRITA LAL MUKHARJI,
Chairman.

PRAN KISSEN BOSE,
Secretary.



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Advertisements and Notices by Private Individuals and Corporations.

Lost or Stolen.

The lower halves of the Government Promissory Notes Nos. 016922 and 089342 of the 3½ per cent. loans of 1900-01 and 1854-55 respectively for Rs500 each, originally standing in the name of Hari Dass Sreemoney and the Bank of Bengal respectively and last endorsed to Agabeg Brothers, the proprietors, by whom they were never endorsed to any other person, having been lost, or stolen, notice is hereby given that payment of the above Notes and the interest thereupon have been stopped at the Public Debt Office, Bank of Bengal, Calcutta, and that application is about to be made for the issue of Duplicates in favour of the proprietors. The public are cautioned against purchasing or otherwise dealing with the abovementioned securities.

Name of the Advertiser—AGABEG BROTHERS,
Jogta Colliery, P. O. Sejua, Manbhoom.

Lost or Stolen.

The Government Promissory Note No. 082062 of the 3½ per cent. of 1900-01 for Rs25,000 originally standing in the name of the Bank of Bengal and last endorsed to Tejpal Jamna Dass, the proprietor, by whom it was never endorsed to any other person but was endorsed in blank, having been lost, stolen, or destroyed, notice is hereby given that payment of the above Note and the interest thereupon have been stopped at the Public Debt Office, Bank of Bengal, Calcutta, and that application is about to be made for the issue of Duplicate in favour of the proprietor. The public are cautioned against purchasing or otherwise dealing with the above mentioned security.

Name of the Advertiser.—Tejpal Jamna Das.
Residence.— No. 95, Lower Chitpur Road, Calcutta.

Stolen.

The Government Promissory Note No. B005409 of the 3½ per cent. of 1900-01 for Rs500 originally standing in the name of the National Bank of India, Limited, and last endorsed to Chujjoomul and Nasarwanji Rustomji.

The Government Promissory note No. B039433 of the 3½ per cent. of 1865 for Rs500 originally standing in the name of the National Bank of India, Limited, and last endorsed to Chujjoomul and Nasarwanji Rustomji.

The Government Promissory note No. 102660 of the 3½ per cent. of 1854-55 for Rs100 originally standing in the name of Dadyba Dinshaw and last endorsed to Chujjoomul and Nasarwanji Rustomji.

The Government Promissory note No. 088529 of the 3½ per cent. of 1854-55 for Rs500 originally standing in the name of the Comptroller General and last endorsed to Chujjoomul and Nasarwanji Rustomji.

The Government Promissory note No. 142897 of the 3½ per cent. of 1865 for Rs200 originally standing in the name of the Bank of Bengal and last endorsed to Chujjoomul and Nasarwanji Rustomji.

The Government Promissory note No. B010868 of the 3½ per cent. of 1900-01 for Rs100 originally standing in the name of the Bank of Bombay and last endorsed to Mohamed Haniff, the proprietors, by whom they were never endorsed to any other person, having been stolen, notice is hereby given that payment of the above notes and the interest thereupon have been stopped at the Public Debt Office, Bank of Bengal, Calcutta, and that application is about to be made for the issue of Duplicates in favour of the proprietors. The public are cautioned against purchasing or otherwise dealing with the above-mentioned securities.

Name of the Advertiser—CAPTAIN H. P. WATTS,

Station Supply Officer, Mhow.



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CALCUTTA, SATURDAY, MARCH 27, 1909.

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PART III.

Advertisements and Notices by Private Individuals and Corporations.

Lost or Stolen.

The lower halves of the Government Promissory Notes Nos. 016922 and 089342 of the 3½ per cent. loans of 1900-01 and 1854-55 respectively for Rs500 each, originally standing in the name of Hari Dass Sreemaney and the Bank of Bengal respectively and last endorsed to Agabeg Brothers, the proprietors, by whom they were never endorsed to any other person, having been lost, or stolen, notice is hereby given that payment of the above Notes and the interest thereupon have been stopped at the Public Debt Office, Bank of Bengal, Calcutta, and that application is about to be made for the issue of Duplicates in favour of the proprietors. The public are cautioned against purchasing or otherwise dealing with the abovementioned securities.

Name of the Advertiser—AGABEG BROTHERS,
Jogta Colliery, P. O. Sejua, Manbhoom.

Lost or Stolen.

The Government Promissory Note No. 082062 of the 3½ per cent. of 1900-01 for Rs25,000 originally standing in the name of the Bank of Bengal and last endorsed to Tejpal Jamna Dass, the proprietor, by whom it was never endorsed to any other person but was endorsed in blank, having been lost, stolen, or destroyed, notice is hereby given that payment of the above Note and the interest thereupon have been stopped at the Public Debt Office, Bank of Bengal, Calcutta, and that application is about to be made for the issue of Duplicate in favour of the proprietor. The public are cautioned against purchasing or otherwise dealing with the abovementioned security.

Name of the Advertiser—Tejpal Jamna Das.
Residence—No. 95, Lower Chitpur Road, Calcutta.

Stolen.

The Government Promissory Note No. B005409 of the 3½ per cent. of 1900-01 for Rs500 originally standing in the name of the National Bank of India, Limited, and last endorsed to Chujjoomul and Nasarwanji Rustomji.

The Government Promissory note No. B039433 of the 3½ per cent. of 1865 for Rs500 originally standing in the name of the National Bank of India, Limited, and last endorsed to Chujjoomul and Nasarwanji Rustomji.

The Government Promissory note No. 102660 of the 3½ per cent. of 1854-55 for Rs100 originally standing in the name of Dadyba Dinshaw and last endorsed to Chujjoomul and Nasarwanji Rustomji.

The Government Promissory note No. 088329 of the 3½ per cent. of 1854-55 for Rs500 originally standing in the name of the Comptroller General and last endorsed to Chujjoomul and Nasarwanji Rustomji.

The Government Promissory note No. 142897 of the 3½ per cent. of 1865 for Rs200 originally standing in the name of the Bank of Bengal and last endorsed to Chujjoomul and Nasarwanji Rustomji.

The Government Promissory note No. B010868 of the 3½ per cent. of 1900-01 for Rs100 originally standing in the name of the Bank of Bombay and last endorsed to Mohamed Haniff, the proprietors, by whom they were never endorsed to any other person, having been stolen, notice is hereby given that payment of the above notes and the interest thereupon have been stopped at the Public Debt Office, Bank of Bengal, Calcutta, and that application is about to be made for the issue of Duplicates in favour of the proprietors. The public are cautioned against purchasing or otherwise dealing with the above-mentioned securities.

Name of the Advertiser—CAPTAIN H. P. WATTS,
Station Supply Officer, Mhow.



The Gazette of India.

PUBLISHED BY AUTHORITY.

CALCUTTA, SATURDAY, APRIL 3, 1909.

Separate paging is given to this Part in order that it may be filed as a separate compilation.

PART III.

Advertisements and Notices by Private Individuals and Corporations.

Stolen.

The Government Promissory Note No. B003409 of the 3½ per cent. of 1900-01 for Rs500 originally standing in the name of the National Bank of India, Limited, and last endorsed to Chujjoomul and Nasarwanji Rustomji.

The Government Promissory note No. B039433 of the 3½ per cent. of 1865 for Rs500 originally standing in the name of the National Bank of India, Limited, and last endorsed to Chujjoomul and Nasarwanji Rustomji.

The Government Promissory note No. 102660 of the 3½ per cent. of 1854-55 for Rs100 originally standing in the name of Dadyba Dinshaw and last endorsed to Chujjoomul and Nasarwanji Rustomji.

The Government Promissory note No. 088529 of the 3½ per cent. of 1854-55 for Rs500 originally standing in the name of the Comptroller General and last endorsed to Chujjoomul and Nasarwanji Rustomji.

The Government Promissory note No. 142897 of the 3½ per cent. of 1865 for Rs200 originally standing in the name of the Bank of Bengal and last endorsed to Chujjoomul and Nasarwanji Rustomji.

The Government Promissory note No. B010868 of the 3½ per cent. of 1900-01 for Rs100 originally standing in the name of the Bank of Bombay and last endorsed to Mohamed Haniff, the proprietors, by whom they were never endorsed to any other person, having been stolen, notice is hereby given that payment of the above notes and the interest thereupon have been stopped at the Public Debt Office, Bank of Bengal, Calcutta, and that application is about to be made for the issue of Duplicates in favour of the proprietors. The public are cautioned against purchasing or otherwise dealing with the above-mentioned securities.

Name of the Advertiser—CAPTAIN H. P. WATTS,
Station Supply Officer, Mhow.

Lost.

The Government Promissory Notes Nos. 085376, 095041 and 143582 of the 3½ per cent. Loan of 1865 for Rupres 100 (one hundred) each originally standing in the name of Kailas Chander Das, Shamapado Sreemaney and Hari Das Sreemaney, respectively, and last endorsed to Aukshoy Coomar Ghose, the proprietor, by whom it was never endorsed to any other person, having been lost, notice is hereby given that payment of the above Notes and the interest thereupon have been stopped at the Public Debt Office, Bank of Bengal, Calcutta, and that application is about to be made for the issue of duplicates in favour of the proprietor. The public are cautioned against purchasing or otherwise dealing with the abovementioned securities.

AUKSHOY COOMAR GHOSE,
3, Jorabagan Street, Calcutta.

IN THE COURT OF THE DISTRICT JUDGE, CIVIL AND MILITARY STATION,
BANGALORE.

INSOLVENCY CASE NO. 4 OF 1909.

In the matter of the application of Charles William Lafrenais residing in St. John's Church Road to be adjudged an insolvent.

It is hereby notified under section 12, sub-section 2, of the Provincial Insolvency Act III of 1907 that an application filed by the above petitioner for being adjudicated an insolvent has been admitted in this Court and that it will be heard on 7th April 1909.

A. RAMAYA PUNJA,
District Judge.

BANGALORE,
The 12th March 1909.

UNCOVENANTED SERVICE FAMILY PENSION FUND.

NOTICE.

Notice is hereby given that in pursuance of a requisition of twelve qualified subscribers to the Uncovenanted Service Family Pension Fund (resident in England) a special meeting of the subscribers to the Fund will be held in the Town Hall on Saturday, the 12th June 1909, at 3 P.M., to consider the advisability of referring again to the general body of subscribers the revision and amendment of the proviso added to Rule 54 by circular No. 1 of the 10th April 1907.

Under the above proviso every subscriber's share of surplus at the commencement of each year was restricted to an amount not exceeding his registered annual subscription, any surplus in excess of this limit being held over for addition to the surplus to be distributed in the following year, instead of being available for refund to the subscriber concerned in cash or for enhancement of the pension assured.

The requisitionists propose that the above proviso be repealed in view to a reversion to the practice of treating excess surplus as available for refund in cash or for enhancement of the pension assured.

Subscribers who cannot attend the above meeting have the right to vote by proxy, the votes to be valid should be stamped with a one-anna stamp and registered in this office not later than the 9th June 1909.

RIVERS HOWE,
Secretary.

52-3, Park Street,
Calcutta;
The 18th February 1909.



The Gazette of India

PUBLISHED BY AUTHORITY.

CALCUTTA, SATURDAY, APRIL 10, 1909.

Separate paging is given to this Part in order that it may be filed as a separate compilation.

PART III.

Advertisements and Notices by Private Individuals and Corporations.

Lost.

The Government Promissory Notes Nos. 085376, 095041 and 143582 of the 3½ per cent. Loan of 1865 for Rupees 100 (one hundred) each originally standing in the name of Kailas Chander Das, Shamapado Sreemaney and Hari Das Sreemaney, respectively, and last endorsed to Aukshoy Coomar Ghose, the proprietor, by whom it was never endorsed to any other person, having been lost, notice is hereby given that payment of the above Notes and the interest thereupon have been stopped at the Public Debt Office, Bank of Bengal, Calcutta, and that application is about to be made for the issue of duplicates in favour of the proprietor. The public are cautioned against purchasing or otherwise dealing with the abovementioned securities.

AUKSHOY COOMAR GHOSE,
3, Jorabagan Street, Calcutta.



The Gazette of India.

PUBLISHED BY AUTHORITY.

CALCUTTA, SATURDAY, APRIL 17, 1909.

Separate paging is given to this Part in order that it may be filed as a separate compilation.

PART III.

Advertisements and Notices by Private Individuals and Corporations.

Lost.

The Government Promissory Notes Nos. 085376, 095041 and 143582 of the $3\frac{1}{4}$ per cent. Loan of 1865 for Rupees 100 (one hundred) each originally standing in the name of Kailas Chander Das, Shamapado Sreemaney and Hari Das Sreemaney, respectively, and last endorsed to Aukshoy Coomar Ghose, the proprietor, by whom they were never endorsed to any other person, having been lost, notice is hereby given that payment of the above Notes and the interest thereupon have been stopped at the Public Debt Office, Bank of Bengal, Calcutta, and that application is about to be made for the issue of duplicates in favour of the proprietor. The public are cautioned against purchasing or otherwise dealing with the abovementioned securities.

AUKSHOY COOMAR GHOSE,
3, Jorabagan Street, Calcutta.



The Gazette of India.

PUBLISHED BY AUTHORITY.

CALCUTTA, SATURDAY, APRIL 24, 1909.

Separate paging is given to this Part in order that it may be filed as a separate compilation.

PART III.

Advertisements and Notices by Private Individuals and Corporations.

Stolen.

Lower half of Debenture No. 203 of the 5 per cent. Tansa Water Works Loan of 1886, repayable 1946 for Rs500, originally standing in the name of Deepchand Nalchand and last endorsed to Joaquim de Sant'anna Pinto, the proprietor, by whom it was never endorsed to any other person, having been stolen, notice is hereby given that payment of the above Debenture and the interest thereupon have been stopped at the Public Debt Office, Bank of Bombay, Bombay, and that application is about to be made to the Municipal Commissioner for the City of Bombay, for payment of interest and the issue of a duplicate. The public are cautioned against purchasing or otherwise dealing with the abovementioned half Debenture.

Name of the Advertiser — JOAQUIM DE SANT'ANNA PINTO,
Residence — Taboot Street, Poona.



The Gazette of India.

PUBLISHED BY AUTHORITY.

CALCUTTA, SATURDAY, MAY 1, 1909.

Separate paging is given to this Part in order that it may be filed as a separate compilation.

PART III.

Advertisements and Notices by Private Individuals and Corporations.

Stolen.

Lower half of Debenture No. 203 of the 5 per cent. Tansa Water Works Loan of 1886, repayable 1946 for Rs500, originally standing in the name of Deepchand Nalchand and last endorsed to Joaquim de Sant'anna Pinto, the proprietor, by whom it was never endorsed to any other person, having been stolen, notice is hereby given that payment of the above Debenture and the interest thereupon have been stopped at the Public Debt Office, Bank of Bombay, Bombay, and that application is about to be made to the Municipal Commissioner for the City of Bombay, for payment of interest and the issue of a duplicate. The public are cautioned against purchasing or otherwise dealing with the abovementioned half Debenture.

Name of the Advertiser—JOAQUIM DE SANT'ANNA PINTO,
Residence—Taboot Street, Poona.

Lost.

The Government Promissory note No. 040469 of the 3 per cent. of 1896-97 for Rs500 originally standing in the name of Framjee Bhicajee Daroga and last endorsed to Rustomji Jamsetji and Kavashaw Rustomji, the proprietors, by whom it was never endorsed to any other person, having been lost, notice is hereby given that payment of the above note and the interest thereupon have been stopped at the Public Debt Office, Bank of Bengal, Calcutta, and that application is about to be made for the issue of Duplicate in favour of the proprietors. The public are cautioned against purchasing or otherwise dealing with the above-mentioned security.

Name of the advertiser—RUSTOMJI JAMSETJI,
Residence—Daria Mahel, Surat.

The 7th April 1909.

Lost.

The Government Promissory note No. 206670 of the 3½ per cent. loan of 1865 for Rs500 (five hundred only), purchased lately through the Post Office, Rangoon, and endorsed to C. Margasagaya Mudaliar, the proprietor, by whom it was never endorsed to any other person, having been lost, notice is hereby given that payment of the above note and the interest thereupon have been stopped at the Public Debt Office, Bank of Bengal, Calcutta, and that application is about to be made for the issue of a duplicate in favour of the proprietor. The public are cautioned against purchasing or otherwise dealing with the above-mentioned security.

Name of the advertiser—C. V. RAMAN,
Assistant Accountant Genl.,
In charge Paper Currency, Rangoon.

UNCOVENANTED SERVICE FAMILY PENSION FUND.

NOTICE.

Notice is hereby given that in pursuance of a requisition of twelve qualified subscribers to the Uncovenanted Service Family Pension Fund (resident in England) a special meeting of the subscribers to the Fund will be held in the Town Hall on Saturday, the 12th June 1909, at 3 P.M., to consider the advisability of referring again to the general body of subscribers the revision and amendment of the proviso added to Rule 54 by circular No. 1 of the 10th April 1907.

Under the above proviso every subscriber's share of surplus at the commencement of each year was restricted to an amount not exceeding his registered annual subscription, any surplus in excess of this limit being held over for addition to the surplus to be distributed in the following year, instead of being available for refund to the subscriber concerned in cash or for enhancement of the pension assured.

The requisitionists propose that the above proviso be repealed in view to a reversion to the practice of treating excess surplus as available for refund in cash or for enhancement of the pension assured.

Subscribers who cannot attend the above meeting have the right to vote by proxy, the votes to be valid should be stamped with a one-anna stamp and registered in this office not later than the 9th June 1909.

RIVERS HOWE,
Secretary.

52-3, Park Street,
Calcutta ;
The 18th February 1909.



The Gazette of India.

PUBLISHED BY AUTHORITY.

CALCUTTA, SATURDAY, MAY 8, 1909.

Separate paging is given to this Part in order that it may be filed as a separate compilation.

PART III.

Advertisements and Notices by Private Individuals and Corporations.

Stolen.

Lower half of Debenture No. 203 of the 5 per cent. Tansa Water Works Loan of 1886, repayable 1946 for Rs500, originally standing in the name of Deepchand Naichand and last endorsed to Joaquim de Sant'anna Pinto, the proprietor, by whom it was never endorsed to any other person, having been stolen, notice is hereby given that payment of the above Debenture and the interest thereupon have been stopped at the Public Debt Office, Bank of Bombay, Bombay, and that application is about to be made to the Municipal Commissioner for the City of Bombay, for payment of interest and the issue of a duplicate. The public are cautioned against purchasing or otherwise dealing with the abovementioned half Debenture.

Name of the Advertiser—JOAQUIM DE SANT'ANNA PINTO.
Residence—Taboot Street, Poona.

Lost.

The Government Promissory note No. 040469 of the 3 per cent. of 1896-97 for Rs500 originally standing in the name of Framjee Bhicajee Daroga and last endorsed to Rustomji Jamsetji and Kavashaw Rustomji, the proprietors, by whom it was never endorsed to any other person, having been lost, notice is hereby given that payment of the above note and the interest thereupon have been stopped at the Public Debt Office, Bank of Bengal, Calcutta, and that application is about to be made for the issue of Duplicate in favour of the proprietors. The public are cautioned against purchasing or otherwise dealing with the above-mentioned security.

Name of the advertiser—RUSTOMJI JAMSETJI,
Residence—Daria Mahel, Surat.

The 7th April 1909.

Lost.

The Government Promissory note No. 206670 of the $3\frac{1}{4}$ per cent. loan of 1865 for Rs500 (five hundred only), purchased lately through the Post Office, Rangoon, and endorsed to C. Margasagaya Mudaliar, the proprietor, by whom it was never endorsed to any other person, having been lost, notice is hereby given that payment of the above note and the interest thereupon have been stopped at the Public Debt Office, Bank of Bengal, Calcutta, and that application is about to be made for the issue of a duplicate in favour of the proprietor. The public are cautioned against purchasing or otherwise dealing with the above-mentioned security.

Name of the advertiser—C. V. RAMAN,

Assistant Accountant Genl.,
In charge Paper Currency, Rangoon.



The Gazette of India.

PUBLISHED BY AUTHORITY.

CALCUTTA, SATURDAY, MAY 15, 1909.

Separate paging is given to this Part in order that it may be filed as a separate compilation.

PART III.

Advertisements and Notices by Private Individuals and Corporations.

Lost.

The Government Promissory note No. 040469 of the 3 per cent. of 1896-97 for Rs500 originally standing in the name of Framjee Bhicajee Daroga and last endorsed to Rustomji Jamsetji and Kavashaw Rustomji, the proprietors, by whom it was never endorsed to any other person, having been lost, notice is hereby given that payment of the above note and the interest thereupon have been stopped at the Public Debt Office, Bank of Bengal, Calcutta, and that application is about to be made for the issue of Duplicate in favour of the proprietors. The public are cautioned against purchasing or otherwise dealing with the above-mentioned security.

Name of the advertiser—RUSTOMJI JAMSETJI,

Residence—Darjah Mahel, Surat.

The 7th April 1909.

Lost.

The Government Promissory note No. 206670 of the 3½ per cent. loan of 1865 for Rs500 (five hundred only), purchased lately through the Post Office, Rangoon, and endorsed to C. Margasagaya Mudaliar, the proprietor, by whom it was never endorsed to any other person, having been lost, notice is hereby given that payment of the above note and the interest thereupon have been stopped at the Public Debt Office, Bank of Bengal, Calcutta, and that application is about to be made for the issue of a duplicate in favour of the proprietor. The public are cautioned against purchasing or otherwise dealing with the above-mentioned security.

Name of the advertiser—C. V. RAMAN,

Assistant Accountant Genl.,
In charge Paper Currency, Rangoon.



The Gazette of India.

PUBLISHED BY AUTHORITY.

CALCUTTA, SATURDAY, MAY 22, 1909.

Separate paging is given to this Part in order that it may be filed as a separate compilation.

PART III.

Advertisements and Notices by Private Individuals and Corporations.

Lost.

The Government Promissory Note No. 078600 of the 3½ per cent. loan of 1900-01 for (Rs500) rupees five hundred only originally standing in the name of Prosad Das Boral & Bros. and last endorsed to Satya Gopal Banerji, the proprietor, by whom it was never endorsed to any other person, having been lost, notice is hereby given that payment of the above note and the interest thereupon have been stopped at the Public Debt Office, Bank of Bengal, Calcutta, and that application is about to be made for the issue of duplicate in favour of the proprietor. The public are cautioned against purchasing or otherwise dealing with the abovementioned security.

Name of the Advertiser—SATYA GOPAL BANERJI,

Residence—46, Ferryghat or Bejoy Babu's Street,
Uttarparah.

Lost.

The Government Promissory Note No. B 018491 of the 3½ per cent. Loan of 1865 for Rupees one thousand only originally standing in the name of the Bank of Bombay and last endorsed to Jayprasad Hariprasad, the proprietor by whom it was never endorsed to any other person, having been lost, notice is hereby given that payment of the above Note and the interest thereupon have been stopped at the Public Debt Office, Bank of Bengal, Calcutta, and that application is about to be made for the issue of duplicate in favour of the proprietor. The public are cautioned against purchasing or otherwise dealing with the abovementioned security.

Name of the Advertiser—JAYPRASAD HARIPRASAD,

Residence—Nagarwada, Junagadh in Kathiawar.



The Gazette of India.

PUBLISHED BY AUTHORITY.

CALCUTTA, SATURDAY, MAY 29, 1909.

Separate paging is given to this Part in order that it may be filed as a separate compilation.

PART III.

Advertisements and Notices by Private Individuals and Corporations.

Lost.

The Government Promissory Note No. 078600 of the $3\frac{1}{4}$ per cent. loan of 1900-01 for (Rs500) rupees five hundred only originally standing in the name of Prosad Das Boral & Bros. and last endorsed to Satya Gopal Banerji, the proprietor, by whom it was never endorsed to any other person, having been lost, notice is hereby given that payment of the above note and the interest thereupon have been stopped at the Public Debt Office, Bank of Bengal, Calcutta, and that application is about to be made for the issue of duplicate in favour of the proprietor. The public are cautioned against purchasing or otherwise dealing with the abovementioned security.

Name of the Advertiser—SATYA GOPAL BANERJI,
Residence—46, Ferryghat or Bejoy Babu's Street,
Utterparah.

Lost.

The Government Promissory Note No. B 018491 of the $3\frac{1}{4}$ per cent. Loan of 1865 for Rupees one thousand only originally standing in the name of the Bank of Bombay and last endorsed to Jayprasad Hariprasad, the proprietor by whom it was never endorsed to any other person, having been lost, notice is hereby given that payment of the above Note and the interest thereupon have been stopped at the Public Debt Office, Bank of Bengal, Calcutta, and that application is about to be made for the issue of duplicate in favour of the proprietor. The public are cautioned against purchasing or otherwise dealing with the abovementioned security.

Name of the Advertiser—JAYPRASAD HARIPRASAD,
Residence—Nagarwada, Junagadh in Kathiawar.

Lost.

The Government Promissory Note No. 079774 of the 3½ per cent. loan of 1900-01 for Rs. 100 (one hundred only) originally standing in the name of the Bank of Bengal and last endorsed to the Comptroller General, the proprietor, by whom it was never endorsed to any other person, having been lost, notice is hereby given that payment of the above Note and the interest thereupon have been stopped at the Public Debt Office, Bank of Bengal, Calcutta, and that application is about to be made for the issue of Duplicate in favour of the proprietor. The public are cautioned against purchasing or otherwise dealing with the above mentioned security.

I. HAMILTON,
Postmaster General, Eastern Bengal and Assam, Dacca.

Stolen.

The Government Promissory Note No. 074243 of the 3½ per cent. loan of 1854-55 for Rs. 500 originally standing in the name of Pandharinath Bhujangrao and last endorsed to Martand Pandharinath, the proprietor, by whom it was never endorsed to any other person, having been stolen, notice is hereby given that payment of the above Note and the interest thereupon have been stopped at the Public Debt Office, Bank of Bengal, Calcutta, and that application is about to be made for the issue of duplicate in favour of the proprietor. The public are cautioned against purchasing or otherwise dealing with the abovementioned security.

Name of the Advertiser—**MARTAND PANDHARINATH.**
Residence—Ahmednagar, Tokhana.

Abstract Statement of the Uncovenanted Service Family Pension Fund for the quarter ending 30th April 1908, being the fourth quarter of the year 1907-08, compared with the corresponding quarter of the year 1906-07.

PARTICULARS.	For the quarter ending 30th April 1908.		For the quarter ending 30th April 1907.		Increase.		Decrease.	
	R	a. p.	R	a. p.	R	a. p.	R	a. p.
Balance in favour of the Fund at the end of the previous quarter	1,52,06,525	10 9	1,51,68,838	0 9	37,687	10 0	.....	.....
ADD—INCOME—								
Subscriptions from 1st February to 30th April in the Widows' Fund	1,14,752	8 10	1,23,449	9 6	.....	.....	8,697	0 8
Subscriptions from 1st February to 30th April in the Children's Fund	50,781	15 6	54,031	4 0	.....	.....	3,249	4 6
Income and outlay on office buildings and grounds	1,813	13 0	1,085	9 6	728	5 6	.....	.....
Fees and stamps	7	8 0	37	9 0	.....	.....	30	1 0
Amount at credit of subscribers under Rule 55 transferred to Divisible Surplus	2,340	0 0	12	12 0	2,327	4 0	.....	.....
Amount of Pension with interest received from Government of India on behalf of incumbents who came upon the Fund in consequence of the Mutiny of 1857	396	7 7	691	12 3	.....	.....	295	4 8
Amount of interest received from the Government of India for the year 1907-08	9,04,175	12 11	9,04,418	13 11	.....	.....	243	1 0
Amount of fine imposed on subscriptions in arrears	43	12 10	52	2 4	.....	.....	8	5 6
TOTAL INCOME	10,74,312	0 8	10,83,779	8 6	3,035	9 6	14,523	1 4
GRAND TOTAL	1,62,80,837	11 5	1,62,52,617	9 3	(A) 40,743	3 6	12,523	1 4
DEDUCT—EXPENDITURE—								
Pensions payable to incumbents in the Widows' Fund	1,77,881	3 1	1,77,547	15 9	333	3 4	.....	.....
Pensions payable to incumbents in the Children's Fund	95,058	9 10	93,610	4 4	2,448	5 6	.....	.....
Establishment and contingencies	6,126	10 9	15,712	11 1	.....	.....	9,586	0 4
Loss by exchange on remittances out of India	11,498	0 11	10,869	12 1	628	5 10	.....	.....
Commission paid for money-orders	704	11 0	760	3 0	4	10 0	.....	.....
TOTAL EXPENDITURE	2,92,349	3 7	2,94,500	13 3	(B) 3,414	8 8	9,586	0 4
Balance in favour of the Fund	1,59,88,508	7 10	1,59,51,116	14 0	(C) 37,328	10 10	2,937	1 0
GRAND TOTAL	1,62,80,837	11 5	1,62,52,617	9 3	40,743	3 6	12,523	1 4
Proportion of divisible surplus payable to qualified members of more than five years' standing	83,020	13 0	85,617	12 0	.....	.....	1,086	15 0

	Widows' Fund.	Children's Fund.	Widows' Fund.	Children's Fund.	Widows' Fund.	Children's Fund.	Widows' Fund.	Children's Fund.
Number of subscribers (30th April)	1,046	626	1,085	660	...	...	39	34
Ditto of incumbents (30th April)	712	852	716	850	...	...	4	...
Ditto of subscribers sharing abatement (1st May).	1,076	604	1,113	635	...	...	37	31

A.—Net increase in grand total of Income	...	...	...	...	...	...	...	...
B.—Net decrease in total Expenditure	...	...	...	...	...	...	...	...
C.—Net increase in Balance	...	...	...	...	...	...	...	...

J. W. MEDLAND, Chartered Accountant,

J. C. C. GRAY,

} Auditors.

J. M. MENDES,
Accountant.Published by order of the Directors,
RIVERS HOWE,
Secretary.U. S. F. P. Fund Office,
Calcutta, the 15th January 1909



The Gazette of India.

PUBLISHED BY AUTHORITY.

CALCUTTA, SATURDAY, JUNE 5, 1909.

Separate paging is given to this Part in order that it may be filed as a separate compilation.

PART III.

Advertisements and Notices by Private Individuals and Corporations.

Lost.

The Government Promissory Note No. 078600 of the $3\frac{1}{4}$ per cent. loan of 1900-01 for (Rs500) rupees five hundred only originally standing in the name of Prosad Das Boral & Bros. and last endorsed to Satya Gopal Banerji, the proprietor, by whom it was never endorsed to any other person, having been lost, notice is hereby given that payment of the above note and the interest thereupon have been stopped at the Public Debt Office, Bank of Bengal, Calcutta, and that application is about to be made for the issue of duplicate in favour of the proprietor. The public are cautioned against purchasing or otherwise dealing with the abovementioned security.

Name of the Advertiser—SATYA GOPAL BANERJI,
Residence—46, Ferryghat or Bejoy Babu's Street, Utterparah.

Lost.

The Government Promissory Note No. B 018491 of the $3\frac{1}{4}$ per cent. Loan of 1865 for Rupees one thousand only originally standing in the name of the Bank of Bombay and last endorsed to Jayprasad Hariprasad, the proprietor by whom it was never endorsed to any other person, having been lost, notice is hereby given that payment of the above Note and the interest thereupon have been stopped at the Public Debt Office, Bank of Bengal, Calcutta, and that application is about to be made for the issue of duplicate in favour of the proprietor. The public are cautioned against purchasing or otherwise dealing with the abovementioned security.

Name of the Advertiser—JAYPRASAD HARIPRASAD,
Residence—Nagarwada, Junagadh in Kathiawar.

Lost.

The Government Promissory Note No. 079774 of the 3½ per cent. loan of 1900-01 for Rs. 100 (one hundred only) originally standing in the name of the Bank of Bengal and last endorsed to the Comptroller General, the proprietor, by whom it was never endorsed to any other person, having been lost, notice is hereby given that payment of the above Note and the interest thereupon have been stopped at the Public Debt Office, Bank of Bengal, Calcutta, and that application is about to be made for the issue of Duplicate in favour of the proprietor. The public are cautioned against purchasing or otherwise dealing with the abovementioned security.

I. HAMILTON,

Postmaster General, Eastern Bengal and Assam, Dacca.

Stolen.

The Government Promissory Note No. 074243 of the 3½ per cent. loan of 1854-55, for Rs. 500 originally standing in the name of Pandharinath Bhujangrao and last endorsed to Martand Pandharinath, the proprietor, by whom it was never endorsed to any other person, having been stolen, notice is hereby given that payment of the above Note and the interest thereupon have been stopped at the Public Debt Office, Bank of Bengal, Calcutta, and that application is about to be made for the issue of duplicate in favour of the proprietor. The public are cautioned against purchasing or otherwise dealing with the abovementioned security.

Name of the Advertiser—MARTAND PANDHARINATH.

Residence—Ahmednagar, Tofkhana.

UNCOVENANTED SERVICE FAMILY PENSION FUND.**NOTICE.**

Notice is hereby given that in pursuance of a requisition of twelve qualified subscribers to the Uncovenanted Service Family Pension Fund (resident in England) a special meeting of the subscribers to the Fund will be held in the Town Hall on Saturday, the 12th June 1909, at 3 P.M., to consider the advisability of referring again to the general body of subscribers the revision and amendment of the proviso added to Rule 54 by circular No. 1 of the 10th April 1907.

Under the above proviso every subscriber's share of surplus at the commencement of each year was restricted to an amount not exceeding his registered annual subscription, any surplus in excess of this limit being held over for addition to the surplus to be distributed in the following year, instead of being available for refund to the subscriber concerned in cash or for enhancement of the pension assured.

The requisitionists propose that the above proviso be repealed in view to a reversion to the practice of treating excess surplus as available for refund in cash or for enhancement of the pension assured.

Subscribers who cannot attend the above meeting have the right to vote by proxy, the votes to be valid should be stamped with a one-anna stamp and registered in this office not later than the 9th June 1909.

RIVERS HOWE,
Secretary.

52-3, Park Street,
Calcutta ;
The 18th February 1909.

Notice.

It is hereby notified that by an extraordinary general meeting held on 20th September 1908 the members of the Aryan Soap and Foundry Company, Limited, have resolved by an extraordinary resolution to wind up the affairs of the Company voluntarily as the Company cannot by reason of its heavy liabilities continue its business.

All claims by the creditors of the aforesaid Company should be submitted to the undersigned within one month from the date of this notice.

The Share holders are also requested to send their proper addresses to the liquidator.

PRABHU DAYAL, M.A., LL. B.,
Vakil, High Court, and Liquidator of the Aryan Soap
and Foundry Company, Limited, Ajmer.

Dated 16th May 1909.



The Gazette of India.

PUBLISHED BY AUTHORITY.

CALCUTTA, SATURDAY, JUNE 12, 1909.

Separate paging is given to this Part in order that it may be filed as a separate compilation.

PART III.

Advertisements and Notices by Private Individuals and Corporations.

Lost.

The Government Promissory Note No. 079774 of the $3\frac{1}{4}$ per cent. loan of 1900-01 for Rs. 100 (one hundred only) originally standing in the name of the Bank of Bengal and last endorsed to the Comptroller General, the proprietor, by whom it was never endorsed to any other person, having been lost, notice is hereby given that payment of the above Note and the interest thereupon have been stopped at the Public Debt Office, Bank of Bengal, Calcutta, and that application is about to be made for the issue of Duplicate in favour of the proprietor. The public are cautioned against purchasing or otherwise dealing with the abovementioned security.

I. HAMILTON,

Postmaster General, Eastern Bengal and Assam, Dacca.

Stolen.

The Government Promissory Note No. 074243 of the $3\frac{1}{4}$ per cent. loan of 1854-55 for Rs. 500 originally standing in the name of Pandharinath Bhujangrao and last endorsed to Martand Pandharinath, the proprietor, by whom it was never endorsed to any other person, having been stolen, notice is hereby given that payment of the above Note and the interest thereupon have been stopped at the Public Debt Office, Bank of Bengal, Calcutta, and that application is about to be made for the issue of duplicate in favour of the proprietor. The public are cautioned against purchasing or otherwise dealing with the abovementioned security.

Name of the Advertiser—MARTAND PANDHARINATH.

Residence—Ahmednagar, Tokkhana.



The Gazette of India.

PUBLISHED BY AUTHORITY.

CALCUTTA, SATURDAY, JUNE 19, 1909.

Separate paging is given to this Part in order that it may be filed as a separate compilation.

PART III.

Advertisements and Notices by Private Individuals and Corporations.

ESTATE COLONEL G. T. KELAART, R.A., DECEASED.

PURSUANT TO SECTION 42, ACT 28 OF 1866.

Notice is hereby given that all persons having claims against the late Gerald Talbot Kelaart, a retired Colonel in the Royal Artillery, who died on 1st March 1909, at the Lombardi Nursing Home, King's Road, Brighton, England, Letters of Administration to whose Estate have been granted to George Roberts Johnston of Messrs. Grindlay and Co., Calcutta, are required to send in the same on or before 23rd July next to the said Messrs. Grindlay & Co., Calcutta, after which date the said Administrator will proceed to administer the assets having regard only to the claims of which he shall then have received notice, and no claims sent in subsequently will be recognized, and all persons indebted to or holding any securities or property belonging to the said Estate are also hereby requested to pay without delay the amount owing by them, or deliver the said securities or property to the said Administrator whose receipt alone is valid for the same.

G. R. JOHNSTON,

Administrator to Estate, Col. G. T. Kelaart, R.A., deceased.

CALCUTTA:
The 11th June 1909.



The Gazette of India

PUBLISHED BY AUTHORITY.

CALCUTTA, SATURDAY, JUNE 26, 1909.

Separate paging is given to this Part in order that it may be filed as a separate compilation.

PART III.

Advertisements and Notices by Private Individuals and Corporations.

ESTATE COLONEL G. T. KELAART, R.A., DECEASED.

PURSUANT TO SECTION 42, ACT 28 OF 1866.

Notice is hereby given that all persons having claims against the late Gerald Talbot Kelaart, a retired Colonel in the Royal Artillery, who died on 1st March 1909, at the Lombardi Nursing Home, King's Road, Brighton, England, Letters of Administration to whose Estate have been granted to George Roberts Johnston of Messrs. Grindlay and Co., Calcutta, are required to send in the same on or before 23rd July next to the said Messrs. Grindlay & Co., Calcutta, after which date the said Administrator will proceed to administer the assets having regard only to the claims of which he shall then have received notice, and no claims sent in subsequently will be recognized, and all persons indebted to or holding any securities or property belonging to the said Estate are also hereby requested to pay without delay the amount owing by them, or deliver the said securities or property to the said Administrator whose receipt alone is valid for the same.

G. R. JOHNSTON,

Administrator to Estate, Col. G. T. Kelaart, R.A., deceased.

CALCUTTA:

The 11th June 1909.

ESTATE BRIG. SURG. LIEUT.-COL. SIR G. KING, I.M.S., DECEASED.

PURSUANT TO SECTION 42, ACT 28 OF 1866.

Notice is hereby given that all persons having claims against the late Sir George King, a Brigade Surgeon Lieutenant-Colonel of the Indian Medical Service, who died on the 12th February 1909 at San Remo, Italy, Letters of Administration to whose Estate have been granted to George Roberts Johnston, of Messrs. Grindlay & Co., Calcutta, are required to send in the same on or before the 27th July next to the said Messrs. Grindlay & Co., Calcutta, after which date the said Administrator will proceed to administer the assets having regard only to the claims of which he shall then have received notice, and no claims sent in subsequently will be recognized, and all persons indebted to or holding any securities or property belonging to the said Estate are also hereby requested to pay without delay the amount owing by them, or deliver the said securities or property to the said Administrator whose receipt alone is valid for the same.

G. R. JOHNSTON,

Administrator to Estate, Brig. Surg. Lieut.-Col. Sir G. King, I.M.S., deceased.

CALCUTTA:

The 15th June 1909.

Abstract Statement of the Uncovenanted Service Family Pension Fund for the quarter ending 31st July 1908, being the first quarter of the year 1908-09, compared with the corresponding quarter of the year 1907-08.

PARTICULARS.	For the quarter ending 31st July 1908.	For the quarter ending 31st July 1907.	Increase.	Decrease.
	<i>R</i> <i>a. p.</i>	<i>R</i> <i>a. p.</i>	<i>R</i> <i>a. p.</i>	<i>R</i> <i>a. p.</i>
Balance in favour of the Fund at the end of the previous quarter	1,59,88,508 7 10	1,59,54,116 14 0	34,391 9 10	.....
ADD—INCOME—				
Subscriptions from 1st May to 31st July in the Widows' Fund	1,01,982 3 6	1,05,030 10 6	.....	3,608 7 0
Subscriptions from 1st May to 31st July in the Children's Fund	47,601 6 0	51,451 6 0	.....	3,850 0 0
Income and outlay on office buildings and grounds	987 4 0	1,400 9 6	.....	413 5 6
Fees and stamps	7 8 0	6 0 0	1 8 0	.....
Amount at credit of subscribers under Rule 55 transferred to Divisible Surplus and amount of excess surplus (Rs. 38,788-2) similarly transferred for redistribution under amended Rule 54	39,103 14 0	.....	39,103 14 0	.....
TOTAL	1,89,682 3 6	1,57,908 10 6	39,105 6 0	7,331 12 6
GRAND TOTAL	11,61,78,190 11 4	1,61,12,025 8 0	A 73,496 15 10	7,331 12 6
DEDUCT—EXPENDITURE—				
Pensions payable to incumbents in the Widows' Fund	1,76,472 4 0	1,76,103 1 1	369 2 11	.....
Pensions payable to incumbents in the Children's Fund	92,824 2 4	66,528 14 8	.....	3,704 12 0
Establishment and contingencies	9,412 10 8	9,950 9 1	.....	546 14 5
Loss by exchange on remittances out of India	14,652 9 1	13,828 15 6	823 0 7	.....
Commission paid for money-orders	786 5 0	817 10 0	.....	31 5 0
Amount of divisible surplus divided amongst qualified subscribers in Widows' Fund	2,84,874 0 0	2,54,837 4 0	30,026 12 0	.....
Amount of divisible surplus divided amongst qualified subscribers in the Children's Fund	86,769 12 0	77,286 0 0	9,483 12 0	.....
TOTAL EXPENDITURE	6,65,791 11 1	6,29,361 6 4	B 40,713 4 6	4,282 15 9
Balance in favour of the Fund	1,55,12,399 0 3	1,54,82,664 1 8	C 32,783 11 4	3,048 12 9
GRAND TOTAL	1,61,78,190 11 4	1,61,12,025 8 0	73,496 15 10	7,331 12 6
Proportion of divisible surplus payable to qualified members of more than five years' standing	92,910 15 0	83,030 15 0	9,880 3 0	.....

	Widows' Fund.	Children's Fund.	Widows' Fund.	Children's Fund.	Widows' Fund.	Children's Fund.	Widows' Fund.	Children's Fund.
Number of subscribers (on 31st July)	1,037	619	1,079	656	...	...	42	37
Ditto of incumbents (on 31st July)	706	854	716	853	...	...	10	...
Ditto of subscribers sharing abatement (1st May).	1,041	580	1,076	604	...	...	35	24

	<i>R</i> <i>a. p.</i>
A.—Net increase in grand total of income	66,165 3 4
B.—Net decrease in total Expenditure	36,430 4 9
C.—Net increase in Balance	29,734 14 7

J. W. MEDLAND, Chartered Accountant, } Auditors.
J. C. C. GRAY,

J. M. MENDES,
Accountant.

Published by order of the Directors,
RIVERS HOWE,
Secretary.

U. S. F. P. Fund Office ;
Calcutta, the 20th May 1909.



The Gazette of India.

PUBLISHED BY AUTHORITY.

CALCUTTA, SATURDAY, JANUARY 16, 1909.

Separate paging is given to this Part in order that it may be filed as a separate compilation.

PART IV.

Acts of the Governor General's Council assented to by the Governor General.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Act of the Governor General of India in Council received the assent of the Governor General on the 15th January 1908 and is hereby promulgated for general information:—

ACT NO. I OF 1909.

An Act further to amend the Inland Steam-vessels Act, 1884, and the Indian Steamships Act, 1884.

WHEREAS it is expedient further to amend the Inland Steam-vessels Act, 1884, and the Indian Steamships Act, 1884; It is hereby enacted as follows:

1. This Act may be called the Indian Steamships Law Amendment Act, 1909.

The Inland Steam-vessels Act, 1884.

2. After section 68 of the Inland Steam-vessels Act, 1884, the following shall be inserted, namely:—

"68A. The provisions of this Act shall apply to vessels which ordinarily ply on inland waters and are propelled by electricity or other mechanical power, with such modifications as the Governor General in Council may prescribe for the purpose of adaptation."

The Indian Steamships Act, 1884.

3. For section 4 of the Indian Steamships Act, VII of 1884, the following shall be substituted, namely:—

"4. No steamship shall carry more than twelve passengers between any two places in British India or to or from any place in British India from or to any place out of British India, unless she has a certificate of survey under this Act in force and applicable to the voyage on which she is about to proceed, or the service on which she is about to be employed."

4. For section 23 of the said Act the following shall be substituted, namely:—

"23. (1) When a steamship requires to be furnished with a certificate of survey under this Act and the Local Government is satisfied, by the production of a certificate of survey attested by a British Consular Officer at the port where the survey was made, that the ship has been officially surveyed at a foreign port, and that the requirements of this Act are proved by that survey to have been substantially complied with, the Local Government may, if it thinks fit, dispense with any further survey of the ship in respect of the requirements so complied with, and give a certificate which shall have the same effect as a certificate given after survey under this Act:

Provided that this sub-section shall not apply in the case of a foreign steamship to an official survey at any foreign port with respect to which His Majesty has by Order in Council directed

57 & 58
Vict., c. 60.

that section 363 of the Merchant Shipping Act, 1894, shall not apply.

(2) When the Local Government has, by notification in the local official Gazette, declared that it is satisfied that an official survey at any foreign port specified in the declaration is such as to prove that the requirements of this Act have been substantially complied with, any person appointed by the Local Government, by name or as holding any office, may exercise the power to dispense with a survey and to give a certificate conferred on the Local Government by sub-section (4) in the case of any steamship furnished with a valid certificate of survey granted at such foreign port and duly attested by the British Consular Officer at that port.

(3) The procedure prescribed in sub-section (1) shall be applicable in the case of steamships furnished with valid certificates of partial survey,

including docking certificates, granted by the Board of Trade or any British Colonial Government, as if they were steamships furnished with like certificates of survey granted at foreign ports, subject to the modification that the powers of the Local Government under the said sub-section may be exercised by any person appointed by the Local Government, by name or as holding any office, in this behalf."

5. After section 40 of the said Act the following shall be inserted, namely:—

Insertion of new section 40 in same Act.

"41. The provisions of this Act shall apply to ships propelled by electricity or other mechanical power, with such modifications as the Governor General in Council may prescribe for the purpose of adaptation."

J. M. MACPHERSON,
Secretary to the Government of India.



The Gazette of India.

PUBLISHED BY AUTHORITY.

CALCUTTA, SATURDAY, FEBRUARY 6, 1909.

Separate paging is given to this Part in order that it may be filed as a separate compilation.

PART IV.

Acts of the Governor General's Council assented to by the Governor General.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT:

The following Act of the Governor General of India in Council received the assent of the Governor General on the 5th February, 1909, and is hereby promulgated for general information:—

ACT NO. II OF 1909.

An Act to amend the Indian Paper Currency Act, 1905.

WHEREAS it is expedient to amend the Indian Paper Currency Act, 1905; It is hereby enacted as follows:—

1. (1) This Act may be called the Indian Paper Currency (Amendment) Act, 1909: and

(2) It extends to the whole of British India, inclusive of British Baluchistan, the Santhal Parganas and the Pargana of Spiti.

2. In section 8, sub-section (3), of the Indian Paper Currency Act, 1905, the words "issued from any town not situate in Burma" shall be repealed.

3. For sections 14 and 15 of the said Act the following shall be substituted, namely:—

"14. A currency note of the denominational value of five rupees shall be a legal tender in any place in British India, and

a currency note of any denominational value exceeding five rupees shall be a legal tender at any place within the circle from which the note was issued,

for the amount expressed in the note, in payment or on account of—

- (a) any revenue or other claim, to the amount of five rupees or upwards, due to the Government of India, and
- (b) any sum of five rupees or upwards, due by the Government of India, or by any body corporate or person in British India:

Provided that no currency note shall be deemed to be a legal tender by the Government of India at any office of issue.

"15. A currency note shall be payable at the following offices of issue, namely:—

- (a) a currency note of the denominational value of five rupees, at any office of issue;
- (b) a currency note of any denominational value exceeding five rupees, at an office of issue in the town from which it was issued and also, unless issued from any town in Burma, at an office of issue in the Presidency-town of the Presidency within which such town is situate."

J. M. MACPHERSON,
Secretary to the Government of India.



The Gazette of India.

PUBLISHED BY AUTHORITY.

CALCUTTA, SATURDAY, MARCH 13, 1909.

Separate paging is given to this Part in order that it may be filed as a separate compilation.

PART IV.

Acts of the Governor General's Council assented to by the Governor General.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Act of the Governor General of India in Council received the assent of the Governor General on the 12th March, 1909, and is hereby promulgated for general information:—

ACT NO. III OF 1909.

THE PRESIDENCY-TOWNS INSOLVENCY ACT, 1909.

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The Presidency-towns Insolvency Act, 1909.
(Part I.—Constitution and Powers of Court.)

An Act to amend the Law of Insolvency in the Presidency-towns and the Town of Rangoon.

WHEREAS it is expedient to amend the law relating to insolvency in the Presidency-towns and the town of Rangoon; It is hereby enacted as follows :—

PRELIMINARY.

1. (1) This Act may be called the Presidency-towns Insolvency Act, 1909.
Short title and commencement.

(2) It shall come into force on the first day of January 1910.

2. In this Act, unless there is anything repugnant in the subject or context,—
Definitions.

- (a) "creditor" includes a decree-holder ;
- (b) "debt" includes a judgment-debt, and "debtor" includes a judgment-debtor ;
- (c) "official assignee" includes an acting official assignee ;
- (d) "prescribed" means prescribed by rules ;
- (e) "property" includes any property over which or the profits of which any person has a disposing power which he may exercise for his own benefit ;
- (f) "rules" means rules made under this Act ;
- (g) "secured creditor" includes a landlord who under any enactment for the time being in force has a charge on land for the rent of that land ;
- (h) "the Court" means the Court exercising jurisdiction under this Act ; and
- (i) "transfer of property" includes a transfer of any interest therein and any charge created thereon.

PART I.

CONSTITUTION AND POWERS OF COURT

Jurisdiction.

3. The Courts having jurisdiction in insolvency under this Act shall be—
Courts having jurisdiction in insolvency.

- (a) the High Courts of Judicature at Fort William, Madras and Bombay ; and
- (b) the Chief Court of Lower Burma.

4. All matters in respect of which jurisdiction is given by this Act shall be exercised by a single Judge. Jurisdiction to be exercised by a single Judge. ordinarily transacted and disposed of by or under the direction of one of the Judges of the Court, and the Chief Justice or Chief Judge shall, from time to time, assign a Judge for that purpose.

5. Subject to the provisions of this Act and of the rules, the Judge of a Court exercising jurisdiction in insolvency may exercise in chambers the whole or any part of his jurisdiction.

6. (1) The Chief Justice or Chief Judge may, from time to time, direct that, in any matters in respect of which jurisdiction is given to the Court by this Act, an officer of the Court appointed by him in this behalf shall have all or any of the powers in this section mentioned ; and any order made or act done by such officer in the exercise of the said powers shall be deemed the order or act of the Court.

(2) The powers referred to in sub-section (1) are the following, namely :—

- (a) to hear insolvency petitions presented by debtors, and to make orders of adjudication thereon ;
- (b) to hold the public examination of insolvents ;
- (c) to make any order or exercise any jurisdiction which is prescribed as proper to be made or exercised in chambers ;
- (d) to hear and determine any unopposed or *ex parte* application ;
- (e) to examine any person summoned by the Court under section 36.

(3) An officer appointed under this section shall not have power to commit for contempt of Court.

7. Subject to the provisions of this Act, the Court shall have full power to decide all questions of priorities, and all other questions whatsoever, whether of law or fact, which may arise in any case of insolvency coming within the cognizance of the Court, or which the Court may deem it expedient or necessary to decide for the purpose of doing complete justice or making a complete distribution of property in any such case.

*The Presidency-towns Insolvency Act, 1909.**(Part I.—Constitution and Powers of Court. Part II.—Proceedings from Act of Insolvency to Discharge.)**Appeals.*

8. (1) The Court may review, rescind or vary any order made by it under its insolvency jurisdiction.

(2) Orders in insolvency matters shall, at the instance of any person aggrieved, be subject to appeal as follows, namely :—

(a) an appeal from an order made by an officer of the Court empowered under section 6 shall lie to the Judge assigned under section 4 for the transaction and disposal of matters in insolvency and no further appeal shall lie except by leave of such Judge ;

(b) save as otherwise provided in clause (a), an appeal from an order made by a Judge in the exercise of the jurisdiction conferred by this Act shall lie in the same way and be subject to the same provisions as an appeal from an order made by a Judge in the exercise of the ordinary original civil jurisdiction of the Court.

PART II.

PROCEEDINGS FROM ACT OF INSOLVENCY TO DISCHARGE.

Acts of insolvency.

9. A debtor commits an act of insolvency in each of the following cases. Acts of insolvency. namely :—

(a) if, in British India or elsewhere, he makes a transfer of all or substantially all his property to a third person for the benefit of his creditors generally ;

(b) if, in British India or elsewhere, he makes a transfer of his property or of any part thereof with intent to defeat or delay his creditors ;

(c) if, in British India or elsewhere, he makes any transfer of his property or of any part thereof, which would, under this or any other enactment for the time being in force, be void as a fraudulent preference if he were adjudged an insolvent ;

(d) if, with intent to defeat or delay his creditors,—

(i) he departs or remains out of British India,

(ii) he departs from his dwelling-house or usual place of business or otherwise absents himself,

(iii) he secludes himself so as to deprive his creditors of the means of communicating with him ;

(e) if any of his property has been sold or attached for a period of not less than twenty-one days in execution of the decree of any Court for the payment of money ;

(f) if he petitions to be adjudged an insolvent ;

(g) if he gives notice to any of his creditors that he has suspended, or that he is about to suspend, payment of his debts ;

(h) if he is imprisoned in execution of the decree of any Court for the payment of money.

Explanation.—For the purposes of this section, the act of an agent may be the act of the principal, even though the agent have no specific authority to commit the act.

Order of adjudication.

10. Subject to the conditions specified in this Power to adjudicate. Act, if a debtor commits an act of insolvency, an insolvency petition may be presented either by a creditor or by the debtor, and the Court may on such petition make an order (hereinafter called an order of adjudication) adjudging him an insolvent.

Explanation.—The presentation of a petition by the debtor shall be deemed an act of insolvency within the meaning of this section, and on such petition the Court may make an order of adjudication.

11. The Court shall not have jurisdiction to Restrictions on make an order of adjudication, unless—

(a) the debtor is, at the time of the presentation of the insolvency petition, imprisoned in execution of the decree of a Court for the payment of money in any prison to which debtors are ordinarily committed by the Court in the exercise of its ordinary original jurisdiction ; or

(b) the debtor, within a year before the date of the presentation of the insolvency petition, has ordinarily resided or had a dwelling-house or has carried on business either in person or through an agent within the limits of the ordinary original civil jurisdiction of the Court ; or

(c) the debtor personally works for gain within those limits ; or

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- (d) in the case of a petition by or against a firm of debtors the firm has carried on business within a year before the date of the presentation of the insolvency petition within those limits

12. (1) A creditor shall not be entitled to present an insolvency petition against a debtor unless—

- (a) the debt owing by the debtor to the creditor, or, if two or more creditors join in the petition, the aggregate amount of debts owing to such creditors, amounts to five hundred rupees, and

- (b) the debt is a liquidated sum payable either immediately or at some certain future time, and

- (c) the act of insolvency on which the petition is grounded has occurred within three months before the presentation of the petition.

(2) If the petitioning creditor is a secured creditor, he shall in his petition either state that he is willing to relinquish his security for the benefit of the creditors in the event of the debtor being adjudged insolvent or give an estimate of the value of the security. In the latter case he may be admitted as a petitioning creditor to the extent of the balance of the debt due to him after deducting the value so estimated in the same way as if he were an unsecured creditor.

13. (1) A creditor's petition shall be verified by affidavit of the creditor, or of some person on his behalf having knowledge of the facts.

(2) At the hearing the Court shall require proof of—

- (a) the debt of the petitioning creditor, and
(b) the act of insolvency or, if more than one act of insolvency is alleged in the petition, some one of the alleged acts of insolvency.

(3) The Court may adjourn the hearing of the petition and order service thereof on the debtor.

(4) The Court shall dismiss the petition—

- (a) if it is not satisfied with the proof of the facts referred to in sub-section (2); or

- (b) if the debtor appears and satisfies the Court that he is able to pay his debts, or that he has not committed an act of insolvency or that for other sufficient cause no order ought to be made.

(5) The Court may make an order of adjudication if it is satisfied with the proof

above referred to, or if on a hearing adjourned under sub-section (3) the debtor does not appear and service of the petition on him is proved, unless in its opinion the petition ought to have been presented before some other Court having insolvency jurisdiction.

(6) Where the debtor appears on the petition and denies that he is indebted to the petitioner, or that he is indebted to such an amount as would justify the petitioner in presenting a petition against him, the Court, on such security (if any) being given as the Court may require for payment to the petitioner of any debt which may be established against the debtor in due course of law, and of the costs of establishing the debt, may, instead of dismissing the petition, stay all proceedings on the petition for such time as may be required for trial of the question relating to the debt.

(7) Where proceedings are stayed, the Court may, if by reason of the delay caused by the stay of proceedings or for any other cause it thinks just, make an order of adjudication on the petition of some other creditor, and shall thereupon dismiss, on such terms as it thinks just, the petition on which proceedings have been stayed as aforesaid.

(8) A creditor's petition shall not, after presentation, be withdrawn without the leave of the Court.

14. A debtor shall not be entitled to present an insolvency petition unless—

- (a) his debts amount to five hundred rupees, or

- (b) he has been arrested and imprisoned in execution of the decree of any Court for the payment of money, or

- (c) an order of attachment in execution of such a decree has been made and is subsisting against his property.

15. (1) A debtor's petition shall allege that the debtor is unable to pay his debts, and, if the debtor proves that he is entitled to present the petition, the Court may thereupon make an order of adjudication, unless in its opinion the petition ought to have been presented before some other Court having insolvency jurisdiction.

(2) A debtor's petition shall not, after presentation, be withdrawn without the leave of the Court.

16. The Court may, if it is shown to be necessary for the protection of the estate, at any time after the presentation of an insolvency petition and before an order of adjudication is made, appoint the official assignee to be interim receiver of the property of the debtor, or of any part thereof,

Discretionary powers as to appointment of interim receiver.

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and direct him to take immediate possession thereof or any part thereof, and the official assignee shall thereupon have such of the powers conferable on a receiver appointed under the Code of Civil Procedure, 1908, as may be prescribed.

17. On the making of an order of adjudication, the property of the insolvent wherever situated shall vest in the official assignee and shall become divisible among his creditors, and thereafter, except as directed by this Act, no creditor to whom the insolvent is indebted in respect of any debt provable in insolvency shall, during the pendency of the insolvency proceedings, have any remedy against the property of the insolvent in respect of the debt or shall commence any suit or other legal proceeding except with the leave of the Court and on such terms as the Court may impose:

Provided that this section shall not affect the power of any secured creditor to realize or otherwise deal with his security in the same manner as he would have been entitled to realize or deal with it if this section had not been passed.

18. (1) The Court may, at any time after the making of an order of adjudication, stay any suit or other proceeding pending against the insolvent before any Judge or Judges of the Court or in any other Court subject to the superintendence of the Court.

(2) An order made under sub-section (1) may be served by sending a copy thereof, under the seal of the Court, by post to the address for service of the plaintiff or other party prosecuting such suit or proceeding, and notice of such order shall be sent to the Court before which the suit or proceeding is pending.

(3) Any Court in which proceedings are pending against a debtor may on proof that an order of adjudication has been made against him under this Act, either stay the proceedings or allow them to continue on such terms as it may think just.

19. (1) If in any case the Court, having regard to the nature of the debtor's estate or business or to the interests of the creditors generally, is of opinion that a special manager of the estate or business ought to be appointed to assist the official assignee, the Court may appoint a manager thereof accordingly to act for such time as the Court may authorize, and to have such powers of the official assignee as may be entrusted to him by the official assignee or as the Court may direct.

(2) The special manager shall give security and furnish accounts in such manner as the

Court may direct, and shall receive such remuneration as the Court may determine.

20. Notice of every order of adjudication, stating the name, address and description of the insolvent, the date of the adjudication, the Court by which the adjudication is made and the date of presentation of the petition, shall be published in the Gazette of India and in the local official Gazette and in such other manner as may be prescribed.

Annulment of adjudication.

21. (1) Where, in the opinion of the Court, a debtor ought not to have been adjudged insolvent, or where it is proved to the satisfaction of the Court that the debts of the insolvent are paid in full, the Court may, on the application of any person interested, by order annul the adjudication.

(2) For the purposes of this section, any debt disputed by a debtor shall be considered as paid in full, if the debtor enters into a bond, in such sum and with such sureties as the Court approves, to pay the amount to be recovered in any proceeding for the recovery of or concerning the debt, with costs, and any debt due to a creditor who cannot be found or cannot be identified shall be considered as paid in full if paid into Court.

22. Where it is proved to the satisfaction of the Court that insolvency proceedings are pending in any other British Court whether within or without British India against the same debtor and that the property of the debtor can be more conveniently distributed by such other Court, the Court may annul the adjudication or may stay all proceedings thereon.

23. (1) Where an adjudication is annulled, all sales and dispositions of property and payments duly made, and all acts theretofore done, by the official assignee or other person acting under his authority, or by the Court, shall be valid, but the property of the debtor who was adjudged insolvent shall vest in such person as the Court may appoint, or, in default of any such appointment, shall revert to the debtor to the extent of his right or interest therein on such terms and subject to such conditions (if any) as the Court may declare by order.

(2) Where a debtor has been released from custody under the provisions of this Act and the order of adjudication is annulled as aforesaid, the Court may, if it thinks fit, recommit the debtor to his former custody, and the

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jailor or keeper of the prison to whose custody such debtor is so recommitted shall receive such debtor into his custody according to such recommitment, and thereupon all processes which were in force against the person of such debtor at the time of such release as aforesaid shall be deemed to be still in force against him as if such order had not been made.

(3) Notice of the order annulling an adjudication shall be published in the Gazette of India and in the local official Gazette and in such other manner as may be prescribed.

Proceedings consequent on order of adjudication.

24. (1) Where an order of adjudication is made against a debtor, he shall prepare and submit to the Court a schedule verified by affidavit, in such form and containing such particulars of and in relation to his affairs as may be prescribed.

(2) The schedule shall be so submitted within the following times, namely:—

(a) if the order is made on the petition of the debtor, within thirty days from the date of the order,

(b) if the order is made on the petition of a creditor, within thirty days from the date of service of the order.

(3) If the insolvent fails, without reasonable excuse, to comply with the requirements of this section, the Court may, on the application of the official assignee or of any creditor, make an order for his committal to the civil prison.

(4) If the insolvent fails to prepare and submit any such schedule as aforesaid, the official assignee may, at the expense of the estate, cause such a schedule to be prepared in manner prescribed.

25. (1) Any insolvent who shall have submitted his schedule as aforesaid may apply to the Court for protection, and the Court may, on such application, make an order for the protection of the insolvent from arrest or detention.

(2) A protection order may apply either to all the debts mentioned in the schedule or to any of them as the Court may think proper, and may commence and take effect at and for such time as the Court may direct, and may be revoked or renewed as the Court may think fit.

(3) A protection order shall protect the insolvent from being arrested or detained in prison for any debt to which such order shall apply, and any insolvent arrested or detained contrary to the terms of such order shall be entitled to his release:

Provided that no such order shall operate to prejudice the right of any creditor in the event of such order being revoked or the adjudication annulled.

(4) Any creditor shall be entitled to appear and oppose the grant of a protection order, but the insolvent shall be *prima facie* entitled to such order on production of a certificate signed by the official assignee that he has so far conformed to the provisions of this Act.

(5) The Court may make a protection order before an insolvent has submitted his schedule if it thinks it necessary to do so in the interests of the creditors.

26. (1) At any time after the making of an order of adjudication against an insolvent, the Court, on the application of a creditor or of the official assignee, may direct that a meeting of creditors shall be held to consider the circumstances of the insolvency and the insolvent's schedule and his explanation thereof and generally as to the mode of dealing with the property of the insolvent.

(2) With respect to the summoning of and proceedings at a meeting of creditors the rules in the First Schedule shall be observed.

27. (1) Where the Court makes an order of adjudication it shall hold a public sitting on a day to be appointed by the Court, of which notice shall be given to creditors in the prescribed manner, for the examination of the insolvent, and the insolvent shall attend thereat, and shall be examined as to his conduct, dealings and property.

(2) The examination shall be held as soon as conveniently may be after the expiration of the time for the filing of the insolvent's schedule.

(3) Any creditor who has tendered a proof or a legal practitioner on his behalf may question the insolvent concerning his affairs and the causes of his failure.

(4) The official assignee shall take part in the examination of the insolvent; and for the purpose thereof, subject to such directions as the Court may give, may be represented by a legal practitioner.

(5) The Court may put such questions to the insolvent as it may think expedient.

(6) The insolvent shall be examined upon oath, and it shall be his duty to answer all such questions as the Court may put or allow to be put to him. Such notes of the examination as the Court thinks proper shall be taken down in writing and shall be read over either to or by the insolvent and signed by him, and may thereafter be used in evidence against him and shall be open to the inspection of any creditor at all reasonable times.

(7) When the Court is of opinion that the affairs of the insolvent have been sufficiently investigated, it shall, by order, declare that his examination is concluded, but such order shall

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not preclude the Court from directing further examination of the insolvent whenever it may deem fit to do so.

(8) Where the insolvent is a lunatic or suffers from any such mental or physical affliction or disability as in the opinion of the Court makes him unfit to attend his public examination, or is a woman who according to the customs and manners of the country ought not to be compelled to appear in public, the Court may make an order dispensing with such examination, or directing that the insolvent be examined on such terms, in such manner and at such place as to the Court seems expedient.

Composition and schemes of arrangement.

28. (1) An insolvent may at any time after the making of an order of adjudication submit a proposal for a composition in satisfaction of his debts or a proposal for a scheme of arrangement of his affairs in the prescribed form, and such proposal shall be submitted by the official assignee to a meeting of creditors.

(2) The official assignee shall send to each creditor who is mentioned in the schedule, or who has tendered a proof before the meeting, a copy of the insolvent's proposals with a report thereon, and if on the consideration of such proposal the majority in number and three-fourths in value of all the creditors whose debts are proved resolve to accept the proposal, the same shall be deemed to be duly accepted by the creditors.

(3) The insolvent may at the meeting amend the terms of his proposal if the amendment is in the opinion of the official assignee calculated to benefit the general body of creditors.

(4) Any creditor who has proved his debt may assent to or dissent from the proposal by a letter, in the prescribed form addressed to the official assignee so as to be received by him not later than the day preceding the meeting, and any such assent or dissent shall have effect as if the creditor had been present and had voted at the meeting.

29. (1) The insolvent or the official assignee may after the proposal is accepted by the creditors apply to the Court to approve it, and notice of the time appointed for hearing the application shall be given to each creditor who has proved.

(2) Except where an estate is being summarily administered or special leave of the Court has been obtained, the application shall not be heard until after the conclusion of the public examination of the insolvent. Any creditor who has proved may be heard by the Court in opposition to the application notwithstanding that he may at a meeting of creditors have voted for the acceptance of the proposal.

(3) The Court shall before approving the proposal hear a report of the official assignee as to the terms thereof and as to the conduct of the insolvent and any objections which may be made by or on behalf of any creditor.

(4) Where the Court is of opinion that the terms of the proposal are not reasonable or are not calculated to benefit the general body of creditors or in any case in which the Court is required to refuse the insolvent's discharge, the Court shall refuse to approve the proposal.

(5) Where any facts are proved on proof of which the Court would be required either to refuse, suspend or attach conditions to the debtor's discharge, the Court shall refuse to approve the proposal unless it provides reasonable security for payment of not less than four annas in the rupee on all the unsecured debts provable against the debtor's estate.

(6) No composition or scheme shall be approved by the Court which does not provide for the payment in priority to other debts of all debts directed to be so paid in the distribution of the property of an insolvent.

(7) In any other case the Court may either approve or refuse to approve the proposal.

30. (1) If the Court approves the proposal, the terms shall be embodied

in an order of the Court, and an order shall be made annulling the adjudication, and the provisions of section 23, sub-sections (1) and (3), shall thereupon apply, and the composition or scheme shall be binding on all the creditors so far as relates to any debt due to them from the insolvent and provable in insolvency.

(2) The provisions of the composition or scheme may be enforced by the Court on application by any person interested, and any disobedience of an order of the Court made on the application shall be deemed a contempt of Court.

31. (1) If default is made in the payment of any instalment due in pursuance of any composition or scheme, approved as aforesaid, or if it appears to the Court that the composition or scheme cannot proceed without injustice or undue delay or that the approval of the Court was obtained by fraud, the Court may, if it thinks fit, on application by any person interested, re-adjudge the debtor insolvent and annul the composition or scheme, and the property of the debtor shall thereupon vest in the official assignee but without prejudice to the validity of any transfer or payment duly made or of anything duly done under or in pursuance of the composition or scheme.

(2) Where a debtor is re-adjudged insolvent under sub-section (1), all debts provable in other respects which have been contracted before the date of such re-adjudication shall be provable in the insolvency.

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32. Notwithstanding the acceptance and approval of a composition or scheme, the composition or scheme shall not be binding on any creditor so far as regards a debt or liability from which, under the provisions of this Act, the insolvent would not be discharged by an order of discharge in insolvency, unless the creditor assents to the composition or scheme.

Control over person and property of insolvent.

33. (1) Every insolvent shall, unless prevented by sickness or other sufficient cause, attend any meeting of his creditors which the official assignee may require him to attend, and shall submit to such examination and give such information as the meeting may require.

(2) The insolvent shall—

- (a) give such inventory of his property, such list of his creditors and debtors, and of the debts due to and from them respectively,
- (b) submit to such examination in respect of his property or his creditors,
- (c) wait at such times and places on the official assignee or special manager,
- (d) execute such powers-of-attorney, transfers and instruments, and
- (e) generally do all such acts and things in relation to his property and the distribution of the proceeds amongst his creditors,

as may be required by the official assignee or special manager or may be prescribed or be directed by the Court by any special order or orders made in reference to any particular case, or made on the occasion of any special application by the official assignee or special manager, or any creditor or person interested.

(3) The insolvent shall aid, to the utmost of his power, in the realization of his property and the distribution of the proceeds amongst his creditors.

(4) If the insolvent wilfully fails to perform the duties imposed upon him by this section, or to deliver up possession to the official assignee of any part of his property, which is divisible amongst his creditors under this Act, and which is for the time being in his possession or under his control, he shall, in

addition to any other punishment to which he may be subject, be guilty of a contempt of Court, and may be punished accordingly.

34. (1) The Court may, either of its own motion or at the instance of the official assignee or of any creditor, by warrant addressed to any police-officer or prescribed officer of the Court, cause an insolvent to be arrested, and committed to the civil prison or if in prison to be detained until such time as the Court may order, under the following circumstances, namely:—

- (a) if it appears to the Court that there is probable reason for believing that he has absconded or is about to abscond with a view of avoiding examination in respect of his affairs, or of otherwise avoiding, delaying or embarrassing proceedings in insolvency against him; or
- (b) if it appears to the Court that there is probable reason for believing that he is about to remove his property with a view of preventing or delaying possession being taken of it by the official assignee, or that there is probable reason for believing that he has concealed or is about to conceal or destroy any of his property or any books, documents or writings which might be of use to his creditors in the course of his insolvency; or
- (c) if he removes any property in his possession above the value of fifty rupees without the leave of the official assignee.

(2) No payment or composition made or security given after arrest made under this section shall be exempt from the provisions of this Act relating to fraudulent preferences.

35. Where the official assignee has been appointed interim receiver or an order of adjudication is made, the Court, on the application of the official assignee, may, from time to time, order that for such time, not exceeding three months, as the Court thinks fit, all post letters, whether registered or unregistered, parcels and money orders addressed to the debtor at any place or places mentioned in the order for re-direction,

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shall be re-directed, or delivered by the Postal authorities in British India, to the official assignee, or otherwise as the Court directs; and the same shall be done accordingly.

36. (1) The Court may, on the application of the official assignee or of any creditor who has proved his debt, at any time after an order of adjudication has been made, summon before it in such manner as may be prescribed the insolvent or any person known or suspected to have in his possession any property belonging to the insolvent, or supposed to be indebted to the insolvent, or any person whom the Court may deem capable of giving information respecting the insolvent, his dealings or property; and the Court may require any such person to produce any documents in his custody or power relating to the insolvent, his dealings or property.

(2) If any person so summoned, after having been tendered a reasonable sum, refuses to come before the Court at the time appointed, or refuses to produce any such document, having no lawful impediment made known to the Court at the time of its sitting and allowed by it, the Court may, by warrant, cause him to be apprehended and brought up for examination.

(3) The Court may examine any person so brought before it concerning the insolvent, his dealings or property, and such person may be represented by a legal practitioner.

(4) If on the examination of any such person the Court is satisfied that he is indebted to the insolvent, the Court may, on the application of the official assignee, order him to pay to the official assignee, at such time and in such manner as to the Court seems expedient, the amount in which he is indebted, or any part thereof, either in full discharge of the whole amount or not, as the Court thinks fit, with or without costs of the examination.

(5) If, on the examination of any such person, the Court is satisfied that he has in his possession any property belonging to the insolvent, the Court may, on the application of the official assignee, order him to deliver to the official assignee that property, or any part thereof, at such time, in such manner and on such terms as to the Court may seem just.

(6) Orders made under sub-sections (4) and (5) shall be executed in the same manner as decrees for the payment of money or for the delivery of property under the Code of Civil Procedure, 1908, respectively.

(7) Any person making any payment or delivery in pursuance of an order made under sub-section (4) or sub-section (5) shall by such payment or delivery be discharged from all liability whatsoever in respect of such debt or property.

37. The Court shall have the same powers to issue commissions and letters of request for the examination on commission or otherwise of any person liable to examination under section 36 as it has for the examination of witnesses under the Code of Civil Procedure, 1908.

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Discharge of Insolvent.

38. (1) An insolvent may, at any time after the order of adjudication, apply to the Court for an order of discharge, and the Court shall appoint a day for hearing the application, but, save where the public examination of the insolvent has been dispensed with under the provisions of this Act, the application shall not be heard until after such examination has been concluded. The application shall be heard in open Court.

(2) On the hearing of the application, the Court shall take into consideration any report of the official assignee as to the insolvent's conduct and affairs, and, subject to the provisions of section 39, may—

- (a) grant or refuse an absolute order of discharge, or
- (b) suspend the operation of the order for a specified time, or
- (c) grant an order of discharge subject to any conditions with respect to any earnings or income which may afterwards become due to the insolvent, or with respect to his after-acquired property.

39. (1) The Court shall refuse the discharge in all cases where the insolvent has committed any offence under this Act, or under sections 421 to 424 of the Indian Penal Code, and shall, on proof of any of the facts hereinafter mentioned, either—

- (a) refuse the discharge; or
- (b) suspend the discharge for a specified time; or
- (c) suspend the discharge until a dividend of not less than four annas in the rupee has been paid to the creditors;

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(d) require the insolvent as a condition of his discharge to consent to a decree being passed against him in favour of the official assignee for any balance or part of any balance of the debts provable under the insolvency which is not satisfied at the date of his discharge; such balance or part of any balance of the debts to be paid out of the future earnings or after-acquired property of the insolvent in such manner and subject to such conditions as the Court may direct; but in that case the decree shall not be executed without leave of the Court, which leave may be given on proof that the insolvent has since his discharge acquired property or income available for payment of his debts.

(2) The facts hereinbefore referred to are—

(a) that the insolvent's assets are not of a value equal to four annas in the rupee on the amount of his unsecured liabilities, unless he satisfies the Court that the fact that the assets are not of such value has arisen from circumstances for which he cannot justly be held responsible;

(b) that the insolvent has omitted to keep such books of account as are usual and proper in the business carried on by him and as sufficiently disclose his business transactions and financial position within the three years immediately preceding his insolvency;

(c) that the insolvent has continued to trade after knowing himself to be insolvent;

(d) that the insolvent has contracted any debt provable under this Act without having at the time of contracting it any reasonable or probable ground of expectation (the burden of proving which shall lie on him) that he would be able to pay it;

(e) that the insolvent has failed to account satisfactorily for any loss of assets or for any deficiency of assets to meet his liabilities;

(f) that the insolvent has brought on or contributed to his insolvency by rash or hazardous speculations or by unjustifiable extravagance in living or by gambling, or by culpable neglect of his business affairs;

(g) that the insolvent has put any of his creditors to unnecessary expense by a frivolous or vexatious defence to any suit properly brought against him;

(h) that the insolvent has within three months preceding the time of presentation of the petition incurred unjustifiable expense by bringing a frivolous or vexatious suit;

(i) that the insolvent has within three months preceding the date of the presentation of the petition, when unable to pay his debts as they become due, given an undue preference to any of his creditors;

(j) that the insolvent has concealed or removed his books or his property or any part thereof or has been guilty of any other fraud or fraudulent breach of trust.

(3) The power of suspending and of attaching conditions to an insolvent's discharge may be exercised concurrently.

(4) On any application for discharge the report of the official assignee shall be *prima facie* evidence and the Court may presume the correctness of any statement contained therein.

40. Notice of the appointment by the Court of the day for hearing the application for discharge shall be published in the prescribed manner and sent one month at least before the day so appointed to each creditor who has proved, and the Court may hear the official assignee and may also hear any creditor. At the hearing the Court may put such questions to the insolvent and receive such evidence as it may think fit.

41. If an insolvent does not appear on the day so appointed for hearing his application for discharge or if an insolvent shall not appear, the Court may apply to the Court for an order of discharge within such time as may be prescribed, the Court, on the application of the official assignee or of a creditor or of its own motion, may annul the adjudication or make such other order as it may think fit, and the provisions of section 23 shall apply on such annulment.

42. (1) Where the Court refuses the discharge of the insolvent it may, after such time and in such circumstances as may be prescribed, permit him to renew his application.

(2) Where an order of discharge is made subject to conditions and at any time after the expiration of two years from the date of the order the insolvent shall satisfy the Court that there is no reasonable probability of his being in a position to comply with the terms of such order the Court may modify the terms of the order, or of any substituted order, in such manner and upon such conditions as it may think fit.

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43. A discharged insolvent shall, notwithstanding his discharge, be under a duty to assist in giving such assistance as may be required in the realization and distribution of such of his property as is vested in the official assignee, and, if he fails to do so, shall be guilty of a contempt of Court; and the Court may also, if it thinks fit, revoke his discharge, but without prejudice to the validity of any sale, disposition or payment duly made or thing duly done subsequent to the discharge, but before its revocation.

44. In either of the following cases, that is to say:—

(1) in the case of a settlement made before and in consideration of marriage where the settlor is not at the time of making the settlement able to pay all his debts without the aid of the property comprised in the settlement; or

(2) in the case of any covenant or contract made in consideration of marriage for the future settlement on or for the settlor's wife or children of any money or property wherein he had not at the date of his marriage any estate or interest (not being money or property of or in right of his wife);

if the settlor is adjudged insolvent or compounds or arranges with his creditors, and it appears to the Court that the settlement, covenant or contract was made in order to defeat or delay creditors, or was unjustifiable having regard to the state of the settlor's affairs at the time when it was made, the Court may refuse or suspend an order of discharge or grant an order subject to conditions or refuse to approve a composition or arrangement.

45. (1) An order of discharge shall not release the insolvent from —
Effect of order of discharge.

(a) any debt due to the Crown;

(b) any debt or liability incurred by means of any fraud or fraudulent breach of trust to which he was a party; or

(c) any debt or liability in respect of which he has obtained forbearance by any fraud to which he was a party; or

(d) any liability under an order for maintenance made under section 488 of the Code of Criminal Procedure, 1898.

(2) Save as otherwise provided by sub-section (1), an order of discharge shall release the insolvent from all debts provable in insolvency.

(3) An order of discharge shall be conclusive evidence of the insolvency, and of the validity of the proceedings therein.

(4) An order of discharge shall not release any person who at the date of the presentation of the petition was a partner or co-trustee with the insolvent or was jointly bound or had made any joint contract with him, or any person who was surety or in the nature of a surety for him.

PART III.

ADMINISTRATION OF PROPERTY.

Proof of debts.

46. (1) Demands in the nature of unliquidated damages arising otherwise than by reason of a contract or breach of trust shall not be provable in insolvency.

(2) A person having notice of the presentation of any insolvency petition by or against the debtor shall not prove for any debt or liability contracted by the debtor subsequently to the date of his so having notice.

(3) Save as provided by sub-sections (1) and (2), all debts and liabilities, present or future, certain or contingent, to which the debtor is subject when he is adjudged an insolvent or to which he may become subject before his discharge by reason of any obligation incurred before the date of such adjudication, shall be deemed to be debts provable in insolvency.

(4) An estimate shall be made by the official assignee of the value of any debt or liability provable as aforesaid which by reason of its being subject to any contingency or contingencies, or for any other reason, does not bear a certain value:

Provided that if in his opinion the value of the debt or liability is incapable of being fairly estimated, he shall issue a certificate to that effect, and thereupon the debt or liability shall be deemed to be a debt not provable in insolvency.

Explanation.—For the purposes of this section "liability" includes any compensation for work or labour done, any obligation or possibility of an obligation to pay money or money's worth on the breach of any express or implied covenant, contract, agreement or undertaking, whether the breach does or does not occur, or is or is not likely to occur or capable of occurring,

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before the discharge of the debtor, and generally it includes any express or implied engagement, agreement or undertaking to pay, or capable of resulting in the payment of, money, or money's worth, whether the payment is, as respects amount, fixed or unliquidated; as respects time, present or future, certain or dependent on any contingency or contingencies; as to mode of valuation, capable of being ascertained by fixed rules, or as matter of opinion.

47. Where there have been mutual dealings between an insolvent and a creditor proving or claiming to prove a debt under this Act, an account shall be taken of what is due from the one party to the other in respect of such mutual dealings, and the sum due from the one party shall be set off against any sum due from the other party, and the balance of the account, and no more, shall be claimed or paid on either side respectively:

Provided that a person shall not be entitled under this section to claim the benefits of any set-off against the property of an insolvent in any case where he had at the time of giving credit to the insolvent notice of the presentation of any insolvency petition by or against him.

48. With respect to the mode of proving debts, the right of proof by secured and other creditors, the admission and rejection of proofs, and the other matters referred to in the Second Schedule, the rules in that schedule shall be observed.

49. (1) In the distribution of the property of the insolvent there shall be paid in priority to all other debts—

- (a) all debts due to the Crown or to any local authority;
- (b) all salary or wages of any clerk, servant or labourer in respect of services rendered to the insolvent during four months before the date of the presentation of the petition, not exceeding three hundred rupees for each such clerk, and one hundred rupees for each such servant or labourer, and
- (c) rent due to a landlord from the insolvent: provided the amount payable under this clause shall not exceed one month's rent.

(2) The debts specified in sub-section (1) shall rank equally between themselves, and shall be paid in full, unless the property of the insolvent is insufficient to meet them, in which case they shall abate in equal proportions between themselves:

(3) Subject to the retention of such sums as may be necessary for the expenses of administration or otherwise, the debts specified in sub-section (1) shall be discharged forthwith in so far as the property of the insolvent is sufficient to meet them.

(4) In the case of partners the partnership property shall be applicable in the first instance in payment of the partnership debts, and the separate property of each partner shall be applicable in the first instance in payment of his separate debts. Where there is a surplus of the separate property of the partners, it shall be dealt with as part of the partnership property; and where there is a surplus of the partnership property, it shall be dealt with as part of the respective separate property in proportion to the rights and interests of each partner in the partnership property.

(5) Subject to the provisions of this Act, all debts proved in insolvency shall be paid rateably according to the amounts of such debts respectively and without any preference.

(6) Where there is any surplus after payment of the foregoing debts, it shall be applied in payment of interest from the date on which the debtor is adjudged an insolvent at the rate of six per centum per annum on all debts proved in the insolvency.

50. After an order of adjudication has been made no distress for rent due before such order shall be made upon the goods or effects of the insolvent, unless the order be annulled, but the landlord or party to whom the rent may be due shall be entitled to prove in respect of such rent.

Property available for payment of debts.

51. The insolvency of a debtor, whether the same takes place on the relation of assignee's title, debtor's own petition or upon that of a creditor or creditors, shall be deemed to have relation back to and to commence at—

- (a) the time of the commission of the act of insolvency on which an order of adjudication is made against him, or
- (b) if the insolvent is proved to have committed more acts of insolvency than one, the time of the first of the acts of insolvency proved to have been committed by the insolvent within three months next preceding the date of the presentation of the insolvency petition:

Provided that no insolvency petition or order of adjudication shall be rendered invalid by reason of any act of insolvency committed anterior to the debt of the petitioning creditor.

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52. (1) The property of the insolvent divisible amongst his creditors, and in this Act referred to as the property of the insolvent, shall not comprise the following particulars, namely:—

Description of insolvent's property divisible amongst creditors.

- (a) property held by the insolvent on trust for any other person;
- (b) the tools (if any) of his trade and the necessary wearing apparel, bedding, cooking vessels, and furniture of himself, his wife and children, to a value, inclusive of tools and apparel and other necessities as aforesaid, not exceeding three hundred rupees in the whole.
- (2) Subject as aforesaid, the property of the insolvent shall comprise the following particulars, namely:—
- (a) all such property as may belong to or be vested in the insolvent at the commencement of the insolvency or may be acquired by or devolved on him before his discharge;
- (b) the capacity to exercise and to take proceedings for exercising all such powers in or over or in respect of property as might have been exercised by the insolvent for his own benefit at the commencement of his insolvency or before his discharge; and
- (c) all goods being at the commencement of the insolvency in the possession, order or disposition of the insolvent, in his trade or business by the consent and permission of the true owner, under such circumstances that he is the reputed owner thereof:

Provided that things in action other than debts due or growing due to the insolvent in the course of his trade or business shall not be deemed goods within the meaning of clause (c):

Provided also that the true owner of any goods which have become divisible among the creditors of the insolvent under the provisions of clause (c) may prove for the value of such goods.

Effect of insolvency on antecedent transactions.

53. (1) Where execution of a decree has been issued against the property of a debtor, no person shall be entitled to the benefit of the execution against the official assignee, except in respect of assets realized in the course of the execution by sale or otherwise before the date of the order of adjudication and before he had

Restriction of rights of creditor under execution.

notice of the presentation of any insolvency petition by or against the debtor.

(2) Nothing in this section shall affect the right of a secured creditor in respect of property against which a decree is executed.

(3) A person who in good faith purchases the property of a debtor under a sale in execution shall in all cases acquire a good title to it against the official assignee.

54. Where execution of a decree has been issued against any property of a debtor which is saleable in execution, and before the sale thereof notice is given to the Court executing the decree that an order of adjudication has been made against the debtor, the Court shall, on application, direct the property, if in the possession of the Court, to be delivered to the official assignee, but the costs of the execution shall be a first charge on the property so delivered, and the official assignee may sell the property or an adequate part thereof for the purpose of satisfying the charge.

55. Any transfer of property, not being a transfer made before and in consideration of marriage, or made in favour of a purchaser or incumbrancer in good faith and for valuable consideration, shall, if the transferor is adjudged insolvent within two years after the date of the transfer, be void against the official assignee.

56. (1) Every transfer of property, every payment made, every obligation incurred, and every judicial proceeding taken or suffered by any person unable to pay his debts as they become due from his own money in favour of any creditor, with a view of giving that creditor a preference over the other creditors, shall, if such person is adjudged insolvent on a petition presented within three months after the date thereof, be deemed fraudulent and void as against the official assignee.

(2) This section shall not affect the rights of any person making title in good faith and for valuable consideration through or under a credit or of the insolvent.

57. Subject to the foregoing provisions with respect to the effect of insolvency on an execution and with respect to the avoidance of certain transfers and preferences, nothing in this Act shall invalidate in the case of an insolvency—

Protection of bona fide transactions.

- (a) any payment by the insolvent to any of his creditors;
- (b) any payment or delivery to the insolvent.

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(c) any transfer by the insolvent for valuable consideration ; or

(b) any contract or dealing by or with the insolvent for valuable consideration :

Provided that any such transaction takes place before the date of the order of adjudication and that the person with whom such transaction takes place has not at the time notice of the presentation of any insolvency petition by or against the debtor.

Realisation of property.

58. (1) The official assignee shall, as soon as possession of property by official assignee. may be, take possession of the deeds, books and documents of the insolvent and all other parts of his property capable of manual delivery.

(2) The official assignee shall, in relation to and for the purpose of acquiring or retaining possession of the property of the insolvent, be in the same position as if he were a receiver of the property appointed under the Code of Civil Procedure, 1908, and the Court may on his application enforce such acquisition or retention accordingly.

(3) Where any part of the property of the insolvent consists of stock, shares in ships, shares, or any other property transferable in the books of any company, office or person, the official assignee may exercise the right to transfer the property to the same extent as the insolvent might have exercised it, if he had not become insolvent.

(4) Where any part of the property of the insolvent consists of things in action, such things shall be deemed to have been duly transferred to the official assignee.

(5) Any treasurer or other officer, or any banker, attorney or agent of an insolvent, shall pay and deliver to the official assignee all money and securities in his possession or power as such officer, banker, attorney or agent, which he is not by law entitled to retain as against the insolvent or the official assignee. If he fails so to do, he shall be guilty of a contempt of Court, and shall be punishable accordingly on the application of the official assignee.

59. (1) The Court may grant a warrant to any prescribed officer of the Court or any police-officer above the rank of a constable to seize any part of the property of an insolvent in the custody or possession of the insolvent or of any other person, and with a view to such seizure to break open any house, building or room of the insolvent where the insolvent is supposed to be, or any building or receptacle of the insolvent where any of his property is supposed to be.

(2) Where the Court is satisfied that there is reason to believe that property of the insolvent is concealed in a house or place not belonging to him, the Court may, if it thinks fit, grant a search-warrant to any such officer as aforesaid who may execute it according to its tenor.

60. (1) Where an insolvent is an officer of the Army or Navy or of His Majesty's Royal Indian Marine Service, or an officer or clerk or otherwise employed or engaged in the civil service of the Crown, the official assignee shall receive for distribution amongst the creditors so much of the insolvent's pay or salary liable to attachment in execution of a decree as the Court may direct.

(2) Where an insolvent is in the receipt of a salary or income other than as aforesaid, the Court may, at any time after adjudication and from time to time, make such order as it thinks just for the payment to the official assignee, for distribution among the creditors of so much of such salary or income as may be liable to attachment in execution of a decree, or of any portion thereof.

61. The property of the insolvent shall pass from official assignee to official assignee, and shall vest in the official assignee for the time being during his continuance in office, without any transfer whatever.

62. (1) Where any part of the property of an insolvent consists of land of any tenure burdened with onerous covenants, of shares or stocks in companies, of unprofitable contracts, or of any other property that is unsaleable, or not readily saleable, by reason of its binding the possessor thereof to the performance of any onerous act or to the payment of any sum of money, the official assignee may, notwithstanding that he may have endeavoured to sell or have taken possession of the property, or exercised any act of ownership in relation thereto, but subject always to the provisions hereinafter contained in that behalf, by writing signed by him, at any time within twelve months after the insolvent has been adjudged insolvent, disclaim the property :

Provided that, where any such property has not come to the knowledge of the official assignee within one month after such adjudication as aforesaid, he may disclaim the property at any time within twelve months after he has first become aware thereof.

(2) The disclaimer shall operate to determine as from the date thereof, the rights, interests

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and liabilities of the insolvent and his property in or in respect of the property disclaimed, and shall also discharge the official assignee from all personal liability in respect of the property disclaimed as from the date when the property vested in him, but shall not, except so far as is necessary for the purpose of releasing the insolvent and his property and the official assignee from liability, affect the rights or liabilities of any other person.

63. Subject always to such rules as may be made in this behalf, the official assignee shall not be entitled to disclaim any leasehold interest without the leave of the Court; and the Court may, before or on granting such leave, require such notices to be given to persons interested, and impose such terms as a condition of granting leave, and make such orders with respect to fixtures, tenant's improvements and other matters arising out of the tenancy, as the Court thinks just.

64. The official assignee shall not be entitled to disclaim any property in pursuance of section 62 in any case where an application in writing has been made to the official assignee by any person interested in the property requiring him to decide whether he will disclaim, and the official assignee has for a period of twenty-eight days after the receipt of the application, or such extended period as may be allowed by the Court, declined or neglected to give notice that he disclaims the property; and in the case of a contract, if the official assignee, after such application as aforesaid, does not within the said period or extended period disclaim the contract, he shall be deemed to have adopted it.

65. The Court may, on the application of any person who is, against the official assignee, entitled to the benefit or subject to the burden of a contract made with the insolvent, make an order rescinding the contract on such terms as to payment by or to either party of damages for the non-performance of the contract, or otherwise, as to the Court may seem equitable, and any damages payable under the order to any such person may be proved by him as a debt under the insolvency.

66. (1) The Court may, on the application of any person either claiming any interest in any disclaimed property, or under any liability not discharged by this Act in respect of any disclaimed property, and on hearing such persons as it thinks fit, make an order for the vesting of the property in or delivery thereof to any person entitled thereto, or to whom it may seem just that the same should be delivered by way of compensation for such liability as aforesaid, or a trustee for him, and on such terms as the Court thinks just; and on any such vesting order being made, the property comprised therein shall vest accordingly in the person therein named in that behalf without any transfer for the purpose:

Provided always, that where the property disclaimed is of a leasehold nature, the Court shall not make a vesting order in favour of any person claiming under the insolvent, whether as under-lessee or as mortgagee except upon the terms of making such person subject to the same liabilities and obligations as the insolvent was subject to under the lease in respect of the property at the date when the insolvency petition was filed, and any under-lessee or mortgagee declining to accept a vesting order upon such terms shall be excluded from all interest in and security upon the property, and if there is no person claiming under the insolvent who is willing to accept an order upon such terms, the Court shall have power to vest the insolvent's interest in the property in any person liable either personally or in a representative character, and either alone or jointly with the insolvent, to perform the lessee's covenants in such lease, freed and discharged from all estates, incumbrances and interests created therein by the insolvent.

(2) The Court may, if it thinks fit, modify the terms prescribed by the foregoing proviso so as to make a person in whose behalf the vesting order may be made subject only to the same liabilities and obligations as if the lease had been assigned to him at the date when the insolvency petition was filed, and (if the case so requires) as if the lease had comprised only the property comprised in the vesting order.

67. Any person injured by the operation of a disclaimer under the foregoing provisions shall be deemed to be a creditor of the insolvent to the amount of the injury, and may accordingly prove the same as a debt under the insolvency.

68. (1) Subject to the provisions of this Act, the official assignee shall, with all convenient speed, realize the property of the insolvent, and for that purpose may—

- (a) sell all or any part of the property of the insolvent;
- (b) give receipts for any money received by him;

and may, by leave of the Court, do all or any of the following things, namely:—

- (c) carry on the business of the insolvent so far as may be necessary for the beneficial winding up of the same;
- (d) institute, defend or continue any suit or other legal proceeding relating to the property of the insolvent;
- (e) employ a legal practitioner or other agent to take any proceedings or do any business which may be sanctioned by the Court;
- (f) accept as the consideration for the sale of any property of the insolvent, a sum of money payable at a future time

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or fully paid shares, debentures or debenture stock in any limited company subject to such stipulations as to security and otherwise as the Court thinks fit;

- (g) mortgage or pledge any part of the property of the insolvent for the purpose of raising money for the payment of his debts or for the purpose of carrying on the business;
- (h) refer any dispute to arbitration, and compromise all debts, claims and liabilities, on such terms as may be agreed upon;
- (i) divide in its existing form amongst the creditors, according to its estimated value, any property which, from its peculiar nature or other special circumstances, cannot readily or advantageously be sold.

(2) The official assignee shall account to the Court and pay over all monies and deal with all securities in such manner as is prescribed or as the Court directs.

Distribution of property.

69. (1) The official assignee shall, with all convenient speed, declare and distribute dividends amongst the creditors who have proved their debts.

(2) The first dividend (if any) shall be declared and be distributed within six months after the adjudication, unless the official assignee satisfies the Court that there is sufficient reason for postponing the declaration to a later date.

(3) Subsequent dividends shall, in the absence of sufficient reason to the contrary, be declared and be payable at intervals of not more than six months.

(4) Before declaring a dividend, the official assignee shall cause notice of his intention to do so to be published in the prescribed manner, and shall also send reasonable notice thereof to each creditor mentioned in the insolvent's schedule who has not proved his debt.

(5) When the official assignee has declared a dividend, he shall send to each creditor who has proved a notice showing the amount of the dividend, and when and how it is payable, and if required by any creditor a statement in the prescribed form as to the particulars of the estate.

70. Where one partner in a firm is adjudged insolvent, a creditor to whom the insolvent is indebted jointly with the other partners in the firm or any of them shall not receive any dividend out of the sepa-

rate property of the insolvent until all the separate creditors have received the full amount of their respective debts.

71. (1) In the calculation and distribution of dividends, the official assignee shall retain in his hands sufficient assets to meet—

(a) debts provable in insolvency and appearing from the insolvent's statements or otherwise to be due to persons resident in places so distant that in the ordinary course of communication they have not had sufficient time to tender their proofs;

(b) debts provable in insolvency the subject of claims not yet determined;

(c) disputed proofs or claims; and

(d) the expenses necessary for the administration of the estate or otherwise.

(2) Subject to the provisions of sub-section (1), all money in hand shall be distributed as dividends.

72. Any creditor who has not proved his debt before the declaration of any dividend or dividends shall be entitled to be paid out of any money for the time being in the hands of the official assignee any dividend or dividends which he may have failed to receive, before that money is applied to the payment of any future dividend or dividends, but he shall not be entitled to disturb the distribution of any dividend declared before his debt was proved by reason that he has not participated therein.

73. (1) When the official assignee has realized all the property of the insolvent, or so much thereof as can, in his opinion, be realized without needlessly protracting the proceedings in insolvency, he shall, with the leave of the Court, declare a final dividend; but, before so doing, he shall give notice in manner prescribed to the persons whose claims to be creditors have been notified to him but not proved that, if they do not prove their claims, to the satisfaction of the Court, within the time limited by the notice, he will proceed to make a final dividend without regard to their claims.

(2) After the expiration of the time so limited, or, if the Court on application by any such claimant grants him further time for establishing his claim, then on the expiration of that further time, the property of the insolvent shall be divided among the creditors who have proved their debts, without regard to the claims of any other persons.

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74. No suit for a dividend shall lie against the official assignee, but, where the official assignee refuses to pay any dividend, the Court may, on the application of the creditor who is aggrieved by such refusal, order him to pay it, and also to pay out of his own money interest thereon at such rate as may be prescribed for the time that it is withheld, and the costs of the application.

75. (1) Subject to such conditions and limitations as may be prescribed, the official assignee may appoint the insolvent himself to superintend the management of the property of the insolvent or of any part thereof, or to carry on the trade (if any) of the insolvent for the benefit of his creditors, and in any other respect to aid in administering the property in such manner and on such terms as the official assignee may direct.

(2) Subject as aforesaid, the Court may, from time to time, make such allowance as it thinks just to the insolvent out of his property, for the support of the insolvent and his family, or in consideration of his services, if he is engaged in winding up his estate, but any such allowance may at any time be varied or determined by the Court.

76. The insolvent shall be entitled to any surplus remaining after payment in full of his creditors, with interest, as provided by this Act and of the expenses of the proceedings taken thereunder.

PART IV.

OFFICIAL ASSIGNEES.

77. (1) The Chief Justice of each of the High Courts of Judicature at Fort William, Madras and Bombay, and the Chief Judge of the Chief Court of Lower Burma, may from time to time appoint substantively or temporarily such person as he thinks fit to the office of official assignee of insolvents' estates for each of the said Courts respectively, and may, with the concurrence of a majority of the other Judges of the Court, remove the person for the time being holding that office for any cause appearing to the Court sufficient.

(2) Every official assignee shall give such security and shall be subject to such rules and shall act in such manner as may be prescribed.

(3) Notwithstanding anything in sub-section (1), the persons substantively or temporarily holding the office of official assignee immediately before the commencement of this Act in the Courts for the relief of Insolvent Debtors at Calcutta, Madras and Bombay respectively under the Indian

Insolvency Act, 1848, and in the Chief Court of Lower Burma under that Act as applied by the Lower Burma Courts Act, 1900, shall, without further appointment for that purpose, become the official assignees, substantive or temporary, as the case may be, under this Act in the High Courts at Fort William, Madras and Bombay and in the Chief Court of Lower Burma, respectively.

78. An official assignee may, for the purpose of administering affidavits verifying proofs, petitions or other proceedings under this Act, administer oaths.

79. (1) The duties of an official assignee shall have relation to the conduct of the insolvent as well as to the administration of his estate.

(2) In particular it shall be the duty of the official assignee—

(a) to investigate the conduct of the insolvent and to report to the Court upon any application for discharge, stating whether there is reason to believe that the insolvent has committed any act which constitutes an offence under this Act or under sections 421 to 424 of the Indian Penal Code in connection with his insolvency or which would justify the Court in refusing, suspending or qualifying an order for his discharge;

(b) to make such other reports concerning the conduct of the insolvent as the Court may direct or as may be prescribed; and

(c) to take such part and give such assistance in relation to the prosecution of any fraudulent insolvent as the Court may direct or as may be prescribed.

80. The official assignee shall, whenever required by any creditor so to do, and on payment by the creditor of the prescribed fee, furnish and send to the creditor by post a list of the creditors showing in the list the amount of the debt due to each of the creditors.

81. (1) Such remuneration shall be paid to the official assignee as may be prescribed.

(2) No remuneration whatever beyond that referred to in sub-section (1) shall be received by an official assignee as such.

82. The Court shall call the official assignee to account for any misfeasance, neglect or omission which may appear in his accounts or otherwise, and may require the official assignee to make

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good any loss which the estate of the insolvent may have sustained by reason of the misfeasance, neglect or omission.

83. The official assignee may sue and be sued by the name of "the official assignee of the property of _____, an insolvent," inserting the name of the insolvent, and by that name may hold property of every description, make contracts, enter into any engagements binding on himself and his successors in office, and do all other acts necessary or expedient to be done in the execution of his office.

84. If an order of adjudication is made against an official assignee, he shall thereby vacate the office of official assignee.

85. (1) Subject to the provisions of this Act and to the directions of the Court, the official assignee shall, in the administration of the property of the insolvent and in the distribution thereof amongst his creditors, have regard to any resolution that may be passed by the creditors at a meeting.

(2) The official assignee may, from time to time, summon meetings of the creditors for the purpose of ascertaining their wishes, and it shall be his duty to summon meetings at such times as the creditors, by resolution at any meeting, or the Court may direct, or whenever requested in writing to do so by one-fourth in value of the creditors who have proved.

(3) The official assignee may apply to the Court for directions in relation to any particular matter arising under the insolvency.

(4) Subject to the provisions of this Act, the official assignee shall use his own discretion in the management of the estate and its distribution among the creditors.

86. If the insolvent or any of the creditors or any other person, is aggrieved by any act or decision of the official assignee, he may appeal to the Court, and the Court may confirm, reverse or modify the act or decision complained of, and make such order as it thinks just.

87. (1) If any official assignee does not faithfully perform his duties and duly observe all the requirements imposed on him by any enactment, rules or otherwise, with respect to the performance of his duties, or if any complaint is made to the Court by any creditor in regard thereto, the Court shall enquire into the matter and take such action thereon as may be deemed expedient.

(2) The Court may at any time require any official assignee to answer any enquiry made by it in relation to any insolvency in which he is engaged, and may examine him or any other person on oath concerning the insolvency.

(3) The Court may also direct an investigation to be made of the books and vouchers of the official assignee.

PART V.

COMMITTEE OF INSPECTION.

88. The Court may, if it so thinks fit, authorize the creditors who have proved to appoint from among the creditors or holders of general proxies or general powers-of-attorney from such creditors, a committee of inspection for the purpose of superintending the administration of the insolvent's property by the official assignee :

Provided that a creditor who is appointed a member of a committee of inspection shall not be qualified to act until he has proved.

89. The committee shall have such powers of control over the proceedings of the official assignee as may be prescribed.

PART VI.

PROCEDURE.

90. (1) In proceedings under this Act the Court shall have the like powers and follow the like procedure as it has and follows in the exercise of its ordinary original civil jurisdiction :

Provided that nothing in this sub-section shall in any way limit the jurisdiction conferred on the Court under this Act.

(2) Subject to the provisions of this Act and rules, the costs of and incidental to any proceeding in the Court shall be in the discretion of the Court.

(3) The Court may at any time adjourn any proceedings before it upon such terms, if any, as it thinks fit to impose.

(4) The Court may at any time amend any written process or proceeding under this Act upon such terms, if any, as it thinks fit to impose.

(5) Where by this Act or by rules the time for doing any act or thing is limited, the Court may extend the time either before or after the expiration thereof, upon such terms, if any, as the Court thinks fit to impose.

(6) Subject to rules, the Court may in any matter take the whole or any part of the evidence either *viva voce* or by interrogatories, or upon affidavit, or by commission.

(7) For the purpose of approving a composition or scheme by joint debtors the Court may, if it thinks fit, and on the report of the official assignee that it is expedient so to do, dispense with the public examination of one of the joint debtors if he is unavoidably prevented from

*The Presidency-towns Insolvency Act, 1909.**(Part VI.—Procedure.)*

attending the examination by illness or absence abroad.

(8) For the purposes of this Act the Chief Court of Lower Burma shall have all the powers to punish for contempt of Court which are possessed by the High Courts of Judicature at Fort William, Madras and Bombay respectively.

91. Where two or more insolvency petitions are presented against the same debtor or against joint debtors, or where joint debtors file separate petitions, the Court may consolidate the proceedings or any of them on such terms as the Court thinks fit.

92. Where the petitioner does not proceed with due diligence on his petition, the Court may substitute as petitioner any other creditor to whom the debtor is indebted in the amount required by this Act in the case of a petitioning creditor.

93. If a debtor by or against whom an insolvency petition has been presented dies, the proceedings in the matter shall, unless the Court otherwise orders, be continued as if he were alive.

94. The Court may, at any time, for sufficient reason, make an order staying the proceedings under an insolvency petition, either altogether or for a limited time, on such terms and subject to such conditions as the Court thinks just.

95. Any creditor whose debt is sufficient to entitle him to present an insolvency petition against all the partners in a firm may present a petition against any one or more partners in the firm without including the others.

96. Where there are more respondents than one to a petition, the Court may dismiss the petition as to one or more of them without prejudice to the effect of the petition as against the other or others of them.

97. Where an order of adjudication has been made on an insolvency petition against or by one partner in a firm, any other insolvency petition against or by a partner in the same firm shall be presented in or transferred to the Court in which the first-mentioned petition is in course of prosecution; and such Court may give such directions for consolidating the proceedings under the petitions as it thinks just.

98. (1) Where a partner in a firm is adjudged insolvent, the Court may authorize the official assignee to continue or commence and carry on any suit or other proceeding in his name and that of the insolvent's partner; and any release

by the partner of the debt or demand to which the proceeding relates shall be void.

(2) Where application for authority to continue or commence any suit or other proceeding has been made under sub-section (1), notice of the application shall be given to the insolvent's partner and he may show cause against it, and on his application the Court may, if it thinks fit, direct that he shall receive his proper share of the proceeds of the proceeding, and if he does not claim any benefit therefrom he shall be indemnified against costs in respect thereof as the Court directs.

99. (1) Any two or more persons, being partners, or any person carrying on business under a partnership name, may take proceedings or be proceeded against under this Act in the name of the firm:

Provided that in that case the Court may, on application by any person interested, order the names of the persons who are partners in the firm, or the name of the person carrying on business under a partnership name, to be disclosed in such manner and verified on oath or otherwise, as the Court may direct.

(2) In the case of a firm in which one partner is an infant, an adjudication order may be made against the firm other than the infant partner.

100. (1) A warrant of arrest issued by the Court may be executed in the same manner and subject to the same conditions as a warrant of arrest issued under the Code of Criminal Procedure, 1898, may be executed.

(2) A warrant to seize any part of the property of an insolvent, issued by the Court under section 59, sub-section (1), shall be in the form prescribed, and sections 77 (2), 79, 82, 83, 84 and 102 of the said Code shall, so far as may be, apply to the execution of such warrant.

(3) A search-warrant issued by the Court under section 59, sub-section (2), may be executed in the same manner and subject to the same conditions as a search-warrant for property supposed to be stolen may be executed under the said Code.

PART VII.

LIMITATION.

101. The period of limitation for an appeal from any act or decision of the official assignee or from an order made by an officer of the Court empowered under section 6 shall be twenty days from the date of such act, decision or order, as the case may be.

*The Presidency-towns Insolvency Act, 1909.**(Part VIII.—Penalties. Part IX.—Small Insolvencies. Part X.—Special Provisions.)*

PART VIII.

PENALTIES.

102. An undischarged insolvent obtaining credit to the extent of fifty rupees or upwards from any person without informing such person that he is an undischarged insolvent shall, on conviction by a Magistrate, be punishable with imprisonment for a term which may extend to six months, or with fine, or with both.

103. Any person adjudged insolvent who—

(a) fraudulently with the intent to conceal the state of his affairs or to defeat the objects of this Act,

(i) has destroyed or otherwise wilfully prevented or purposely withheld the production of any book, paper or writing relating to such of his affairs as are subject to investigation under this Act, or

(ii) has kept or caused to be kept false books, or

(iii) has made false entries in or withheld entries from, or wilfully altered or falsified, any book, paper or writing relating to such of his affairs as are subject to investigation under this Act, or

(b) fraudulently with intent to diminish the sum to be divided amongst his creditors or of giving an undue preference to any of the said creditors,

(c) has discharged or concealed any debt due to or from him, or

(d) has made away with, charged, mortgaged or concealed any part of his property of what kind soever,

shall on conviction be punishable with imprisonment for a term which may extend to two years.

104. (1) Where the official assignee reports to the Court that in his opinion an insolvent has been guilty of any offence under section 103,

or where the Court is satisfied upon the representation of any creditor that there is ground to believe that the insolvent has been guilty of any such offence, the Court may direct that a notice be served on the insolvent in the prescribed manner to show cause why a charge or charges should not be framed against him.

(2) The notice shall set forth the substance of the offence and any number of offences may be set forth in the same notice.

(3) At the hearing of such notice and of any charge framed in pursuance thereof the

Court shall, so far as may be, follow the procedure for the trial of warrant cases by Magistrates prescribed by Chapter XXI of the Code of Criminal Procedure, 1898, and nothing in Chapter XXIII of the said Code relating to trials before High Courts and Courts of Session shall be applicable to such trial.

(4) Any number of offences under this Act may be charged at the same time.

105. Where an insolvent has been guilty of Criminal liability any of the offences specified in section 102 or section 103, he shall not be exempt from being proceeded against therefor by reason that he has obtained his discharge or that a composition or scheme of arrangement has been accepted or approved.

PART IX.

SMALL INSOLVENCIES.

106. Where the Court is satisfied by affidavit or otherwise, or the official assignee reports to the Court, that the property of an insolvent is not likely to exceed in value three thousand rupees or such other less amount as may be prescribed, the Court may make an order that the insolvent's estate be administered in a summary manner, and thereupon the provisions of this Act shall be subject to the following modifications, namely:—

(a) no appeal shall lie from any order of the Court, except by leave of the Court;

(b) no examination of the insolvent shall be held except on the application of a creditor or the official assignee;

(c) the estate shall, where practicable, be distributed in a single dividend;

(d) such other modifications as may be prescribed with the view of saving expense and simplifying procedure;

Provided that nothing in this section shall permit the modification of the provisions of this Act relating to the discharge of the insolvent.

(2) The Court may at any time, if it thinks fit, revoke an order for the summary administration of an insolvent's estate.

PART X

SPECIAL PROVISIONS.

107. No insolvency petition shall be presented against any corporation or against any association or company registered under any enactment for the time being in force.

Exemption of corporation, etc., from insolvency proceedings.

*The Presidency-towns Insolvency Act, 1909**(Part X. — Special Provisions.)*

108. (1) Any creditor of a deceased debtor Administration in whose debt would have Insolvency of estate of person dying insolvent. been sufficient to support an insolvency petition against the debtor, had he been alive, may present to the Court within the limits of whose ordinary original civil jurisdiction the debtor resided or carried on business for the greater part of the six months immediately prior to his decease, a petition in the prescribed form praying for an order for the administration of the estate of the deceased debtor under this Act.

(2) Upon the prescribed notice being given to the legal representative of the deceased debtor, the Court may, upon proof of the petitioner's debt, unless the Court is satisfied that there is a reasonable probability that the estate will be sufficient for the payment of the debts owing by the deceased, make an order for the administration in insolvency of the deceased debtor's estate, or may upon cause shown dismiss the petition with or without costs.

(3) A petition for administration under this section shall not be presented to the Court after proceedings have been commenced in any Court of justice for the administration of the deceased debtor's estate; but that Court may in that case, on proof that the estate is insufficient to pay its debts, transfer the proceedings to the Court exercising jurisdiction in insolvency under this Act, and thereupon the last-mentioned Court may make an order for the administration of the estate of the deceased debtor, and the like consequences shall ensue as under an administration order made on the petition of a creditor.

109. (1) Upon an order being made for the administration of a deceased debtor's estate under section 108, the property of the debtor shall vest in the official assignee of the Court, and he shall forthwith proceed to realize and distribute the same in accordance with the provisions of this Act.

(2) With the modification hereinafter mentioned, all the provisions of Part III, relating to the administration of the property of an insolvent, shall, so far as the same are applicable, apply to the case of such administration order in like manner as to an order of adjudication under this Act.

(3) In the administration of the property of the deceased debtor under an order of administration, the official assignee shall have regard to any claims by the legal representative of the deceased debtor to payment of the proper funeral and testamentary expenses incurred by him in and about the debtor's estate; and those claims shall be deemed a preferential debt under the order, and be payable in full, out of the debtor's estate, in priority to all other debts.

(4) If, on the administration of a deceased debtor's estate, any surplus remains in the hands of the official assignee after payment in full of all the debts due from the debtor, together with the costs of the administration and interest as provided by this Act in case of insolvency, such surplus shall be paid over to the legal representative of the deceased debtor's estate, or dealt with in such other manner as may be prescribed.

110. (1) After notice of the presentation of a petition under section 108 no payment or transfer of property made by the legal representative shall operate as a discharge to him as between himself and the official assignee.

(2) Save as aforesaid nothing in section 108 or section 109 or this section shall invalidate any payment made or act or thing done in good faith by the legal representative or by a District Judge acting under the powers conferred on him by section 64 of the Administrator General's Act, 1874, before the date of the order for administration.

111 The provisions of section 108, 109 and 110 shall not apply to any case in which probate or letters of administration to the estate of a deceased debtor have been granted to an Administrator General. II of 1874.

PART XI.

RULES.

112. (1) The Courts having jurisdiction under this Act may from time to time make rules for carrying into effect the objects of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for and regulate—

- (a) the fees and percentages to be charged under this Act and the manner in which the same are to be collected and accounted for and the account to which they are to be paid;
- (b) the investment, whether separately or collectively, of unclaimed dividends, balances and other sums appertaining to the estates of insolvent debtors whether adjudicated insolvent under this or any former enactment; and the application of the proceeds of such investment;
- (c) the proceedings of the official assignee in taking possession of and realizing the estates of insolvent debtors;
- (d) the remuneration of the official assignee;
- (e) the receipts, payments and accounts of the official assignee;
- (f) the audit of the accounts of the official assignee;

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(Part XI.—Rules. Part XII.—Supplemental.)

- (g) the payment of the remuneration of the official assignee, of the costs, charges and expenses of his establishment, and of the costs of the audit of his accounts out of the proceeds of the investments in his hands;
- (h) the payment of the costs incurred in the prosecution of fraudulent debtors and in legal proceedings taken by the official assignee under the direction of the Court out of the proceeds aforesaid;
- (i) the payment of any civil liability incurred by an official assignee acting under the order or direction of the Court;
- (j) the proceedings to be taken in connection with proposals for composition and schemes of arrangement with the creditors of insolvent debtors;
- (k) the intervention of the official assignee at the hearing of applications and matters relating to insolvent debtors and their estates;
- (l) the examination by the official assignee of the books and papers of account of undischarged insolvent debtors;
- (m) the service of notices in proceedings under this Act;
- (n) the appointment, meetings and procedure of committees of inspection;
- (o) the conduct of proceedings under this Act in the name of a firm;
- (p) the forms to be used in proceedings under this Act;
- (q) the procedure to be followed in the case of estates to be administered in a summary manner;
- (r) the procedure to be followed in the case of estates of deceased persons to be administered under this Act.

113. Rules made under the provisions of this Part shall be subject, in the case of the High Court of Judicature at Fort William in Bengal, to the previous sanction of the Governor General in Council, and, in the case of any other Court, of the Local Government.

114. Rules so made and sanctioned shall be published in the Gazette of India or in the local official Gazette, as the case may be, and shall thereupon have the same force and effect with regard to proceedings under this Act in the Court which made them as if they had been enacted in this Act.

PART XII.

SUPPLEMENTAL.

115. (1) Every transfer, mortgage, assignment, power-of-attorney, proxy paper, certificate, affidavit, bond or other proceedings, instrument or writing whatsoever before or under any order of the Court, and any copy thereof shall be exempt from payment of any stamp or other duty whatsoever.

(2) No stamp-duty or fee shall be chargeable for any application made by the official assignee to the Court under this Act, or for the drawing and issuing of any order made by the Court on such application.

116. (1) A copy of the official Gazette containing any notice inserted in pursuance of this Act shall be evidence of the facts stated in the notice.

(2) A copy of the official Gazette containing any notice of an order of adjudication shall be conclusive evidence of the order having been duly made, and of its date.

117. Any affidavit may be used in a Court having jurisdiction under this Act if it is sworn—

(a) in British India, before—

(i) any Court or Magistrate, or

(ii) any officer or other person appointed to administer oaths under the Code of Civil Procedure, 1908; V of 1908.

(b) in England, before any person authorized to administer oaths in His Majesty's High Court of Justice, or in the Court of Chancery of the County Palatine of Lancaster, or before any Registrar of a Bankruptcy Court, or before any officer of a Bankruptcy Court authorized in writing in that behalf by the Judge of the Court or before a Justice of the Peace for the county or place where it is sworn;

(c) in Scotland or in Ireland, before a Judge Ordinary, Magistrate or Justice of the Peace; and,

(d) in any other place, before a Magistrate or Justice of the Peace or other person qualified to administer oaths in that place (he being certified to be a Magistrate or Justice of the Peace, or qualified as aforesaid, by a British Minister or British Consul or British Political Agent or by a notary public).

*The Presidency-towns Insolvency Act, 1909.**(Part XII.—Supplemental. The First Schedule.—Meetings of Creditors.)*

118. (1) No proceeding in insolvency shall be invalidated by any formal defect or by any irregularity unless the Court before which an objection is made to the proceeding is of opinion that substantial injustice has been caused by the defect or irregularity, and that the injustice cannot be remedied by any order of that Court.

(2) No defect or irregularity in the appointment of an official assignee or member of a committee of inspection shall vitiate any act done by him in good faith.

119. Where an insolvent is a trustee within the Indian Trustee Act, 1867, section 35 of that Act shall have effect so as to authorize the appointment of a new trustee in substitution for the insolvent (whether voluntarily resigning or not), if it appears expedient to do so, and all provisions of that Act, and of any other Act relative thereto, shall have effect accordingly.

120. Save as herein provided, the provisions of this Act relating to the remedies against the property of a debtor, the priorities of debts, the effect of a composition or scheme of arrangement, and the effect of a discharge shall bind the Crown.

121. Nothing in this Act, or in any transfer of jurisdiction effected thereby, shall take away or affect any right of audience that any person may have had immediately before the commencement of this Act, or shall be deemed to confer such right in insolvency matters on any person who had not a right of audience before the Courts for the Relief of Insolvent Debtors.

122. Where the official assignee has under his control any dividend which has remained unclaimed for fifteen years from the date of declaration or such less period as may be prescribed, he shall pay the same to the account and credit of the Government of India, unless the Court otherwise directs.

123. Any person claiming to be entitled to any monies paid to the account and credit of the Government of India under section 122, may apply to the Court for an order for payment to him of the same; and the Court, if satisfied that the person claiming is entitled, shall make an order for payment to him of the sum due.

Provided that, before making an order for the payment of a sum which has been carried to the account and credit of the Government of India, the Court shall cause a notice to be served on such officer as the Governor General in Coun-

cil may appoint in this behalf, calling on the officer to show cause, within one month from the date of the service of the notice, why the order should not be made.

124. (1) No person shall, as against the official assignee, be entitled to withhold possession of the books of accounts belonging to the insolvent or to set up any lien thereon.

(2) Any creditor of the insolvent may, subject to the control of the Court, and on payment of such fee, if any, as may be prescribed, inspect at all reasonable times, personally or by agent, any such books in the possession of the official assignee.

125. Such fees and percentages shall be charged for and in respect of proceedings under this Act as may be prescribed.

126. All Courts having jurisdiction under this Act shall make such orders and do such things as may be necessary to give effect to section 118 of the Bankruptcy Act, 1883, and to section 50 of the Provincial Insolvency Act, 1907.

127. (1) The enactments mentioned in the third schedule are hereby repealed to the extent specified in the fourth column thereof.

(2) Notwithstanding the repeal effected by this Act, the proceedings under an insolvency petition under the Indian Insolvency Act, 1848, pending at the commencement of this Act shall, except so far as any provision of this Act is expressly applied to pending proceedings, continue, and all the provisions of the said Indian Insolvency Act shall, except as aforesaid, apply thereto, as if this Act had not been passed.

THE FIRST SCHEDULE.

(See section 26.)

MEETINGS OF CREDITORS.

1. The official assignee may at any time summon a meeting of creditors, and shall do so whenever so directed by the Court or by the creditors by resolution at any meeting or whenever requested in writing by one-fourth in value of the creditors who have proved.

2. Meetings shall be summoned by sending notice of the time and place thereof to each creditor at the address given in his proof, or, if he has not proved, at the address given in the insolvent's schedule, or such other address as may be known to the official assignee.

The Presidency-towns Insolvency Act, 1909.
(The First Schedule.—Meetings of Creditors.)

3. The notice of any meeting shall be sent off not less than seven days before the day appointed for the meeting and may be delivered personally or sent by prepaid post letter, as may be convenient. The official assignee may, if he thinks fit, also publish the time and place of any meeting in any local newspaper or in the local official Gazette.

4. It shall be the duty of the insolvent to attend any meeting which the official assignee may, by notice, require him to attend, and any adjournment thereof. Such notice shall be either delivered to him personally or sent to him at his address by post at least three days before the date fixed for the meeting.

5. The proceedings held and resolutions passed at any meeting shall, unless the Court otherwise orders, be valid notwithstanding that any creditor has not received the notice sent to him.

6. A certificate of the official assignee that the notice of any meeting has been duly given, shall be sufficient evidence of such notice having been duly sent to the person to whom the same was addressed.

7. Where on the request of creditors the official assignee summons a meeting, there shall be deposited with the written request the sum of five rupees for every twenty creditors for the costs of summoning the meeting, including all disbursements: Provided that the official assignee may require such further sum to be deposited as in his opinion shall be sufficient to cover the costs and expenses of the meeting.

8. The official assignee shall be the chairman of any meeting.

9. A creditor shall not be entitled to vote at a meeting unless he has duly proved a debt provable in insolvency to be due to him from the insolvent, and the proof has been duly lodged one clear day before the time appointed for the meeting.

10. A creditor shall not vote at any such meeting in respect of any unliquidated or contingent debt, or any debt the value of which is not ascertained.

11. For the purpose of voting, a secured creditor shall, unless he surrenders his security, state in his proof the particulars of his security, the date when it was given, and the value at which he assesses it, and shall be entitled to vote only in respect of the balance, if any, due

to him after deducting the value of his security. If he votes in respect of his whole debt, he shall be deemed to have surrendered his security, unless the Court on application is satisfied that the omission to value the security has arisen from inadvertence.

12. Where a creditor seeks to prove in respect of a bill of exchange, promissory note, or other negotiable instrument or security on which the insolvent is liable, such bill of exchange, note, instrument or security must, subject to any special order of the Court made to the contrary, be produced to the official assignee before the proof can be admitted for voting.

13. It shall be competent to the official assignee, within twenty-eight days after a proof estimating the value of a security has been made use of in voting at any meeting, to require the creditor to give up the security for the benefit of the creditors generally, on payment of the value so estimated.

14. If one partner in a firm is adjudged insolvent, any creditor to whom that partner is indebted jointly with the other partners in the firm, or any of them, may prove his debt for the purpose of voting at any meeting of creditors and shall be entitled to vote thereat.

15. The official assignee shall have power to admit or reject a proof for the purpose of voting, but his decision shall be subject to appeal to the Court. If he is in doubt whether the proof of a creditor should be admitted or rejected, he shall mark the proof as objected to, and shall allow the creditor to vote, subject to the vote being declared invalid in the event of the objection being sustained.

16. A creditor may vote either in person or by proxy.

17. Every instrument of proxy shall be in the prescribed form and shall be issued by the official assignee.

18. A creditor may give a general proxy to his attorney or to his manager or clerk, or any other person in his regular employment. In such case the instrument of proxy shall state the relation in which the person to act thereunder stands to the creditor.

19. A proxy shall not be used unless it is deposited with the official assignee one clear day before the time appointed for the meeting at which it is to be used.

*The Presidency-towns Insolvency Act, 1909.**(The First Schedule.—Meetings of Creditors. The Second Schedule.—Proof of Debts.)*

20. A creditor may appoint the official assignee as assignee to act as his proxy.

21. The official assignee may adjourn the meeting from time to time and from place to place, and no notice of the adjournment shall be necessary.

22. The official assignee shall draw up a minute of the proceedings at the meeting and shall sign the same.

THE SECOND SCHEDULE.

(See section 48.)

PROOF OF DEBTS.

Proofs in ordinary cases.

1. Every creditor shall lodge the proof of his debt as soon as may be after the making of an order of adjudication.

2. A proof may be lodged by delivering or sending by post in a registered letter to the official assignee an affidavit verifying the debt.

3. The affidavit may be made by the creditor himself or by some person authorized by or on behalf of the creditor. If made by a person so authorized, it shall state his authority and means of knowledge.

4. The affidavit shall contain or refer to a statement of account showing the particulars of the debt, and shall specify the vouchers, if any, by which the same can be substantiated. The official assignee may at any time call for the production of the vouchers.

5. The affidavit shall state whether the creditor is or is not a secured creditor.

6. A creditor shall bear the cost of proving his debt unless the Court otherwise specially orders.

7. Every creditor who has lodged a proof shall be entitled to see and examine the proofs of other creditors at all reasonable times.

8. A creditor in lodging his proofs shall deduct from his debt all trade discounts, but he shall not be compelled to deduct any discount, not exceeding five per centum on the net amount of his claim, which he may have agreed to allow for payment in cash.

Proof by secured creditors.

9. If a secured creditor realizes his security, he may prove for the balance due to him, after deducting the net amount realized.

10. If a secured creditor surrenders his security to the official assignee for the general benefit of the creditors, he may prove for his whole debt.

11. If a secured creditor does not either realize or surrender his security, he shall, before ranking for dividend, state in his proof the particulars of his security, the date when it was given and the value at which he assesses it, and shall be entitled to receive a dividend only in respect of the balance due to him after deducting the value so assessed.

12. (1) Where a security is so valued the official assignee may at any time redeem it on payment to the creditor of the assessed value.

(2) If the official assignee is dissatisfied with the value at which a security is assessed, he may require that the property comprised in any security so valued be offered for sale at such times and on such terms and conditions as may be agreed on between the creditor and the official assignee, or as, in default of agreement, the Court may direct. If the sale is by public auction, the creditor, or the official assignee on behalf of the estate, may bid or purchase :

Provided that the creditor may at any time, by notice in writing, require the official assignee to elect whether he will or will not exercise his power of redeeming the security or requiring it to be realized, and if the official assignee does not, within six months after receiving the notice, signify in writing to the creditor his election to exercise the power, he shall not be entitled to exercise it; and the equity of redemption, or any other interest in the property comprised in the security which is vested in the official assignee, shall vest in the creditor, and the amount of his debt shall be reduced by the amount at which the security has been valued.

13. Where a creditor has so valued his security, he may at any time amend the valuation and proof on showing to the satisfaction of the official assignee, or the Court, that the valuation and proof were made *bond fide* on a mistaken estimate, or that the security has diminished or increased in value since its previous valuation; but every such amendment shall be made at the cost of the creditor, and upon such terms as the Court shall order, unless the official assignee shall allow the amendment without application to the Court.

The Presidency-towns Insolvency Act, 1909.
(The Second Schedule.—Proof of Debts.)

14. Where a valuation has been amended in accordance with the foregoing rule, the creditor shall forthwith repay any surplus dividend which he has received in excess of that to which he would have been entitled on the amended valuation, or, as the case may be, shall be entitled to be paid out of any money for the time being available for dividend any dividend or share of dividend which he has failed to receive by reason of the inaccuracy of the original valuation, before that money is made applicable to the payment of any future dividend, but he shall not be entitled to disturb the distribution of any dividend declared before the date of the amendment.

15. If a creditor after having valued his security subsequently realizes it, or if it is realized under the provisions of rule 12, the net amount realized shall be substituted for the amount of any valuation previously made by the creditor and shall be treated in all respects as an amended valuation made by the creditor.

16. If a secured creditor does not comply with the foregoing rules, he shall be excluded from all share in any dividend.

17. Subject to the provisions of rule 12, a creditor shall in no case receive more than sixteen annas in the rupee and interest as provided by this Act.

Taking Accounts of Property Mortgaged, and of the Sale thereof.

18. Upon application by any person claiming to be a mortgagee of any part of the insolvent's real or leasehold estate and whether such mortgage is by deed or otherwise, and whether the same is of a legal or equitable nature, or upon application by the official assignee with the consent of such person claiming to be a mortgagee as aforesaid, the Court shall proceed to inquire whether such person is such mortgagee, and for what consideration and under what circumstances; and if it is found that such person is such mortgagee, and if no sufficient objection appears to the title of such person to the sum claimed by him under such mortgage, the Court shall direct such accounts and inquiries to be taken as may be necessary for ascertaining the principal, interest and costs due upon such mortgage, and of the rents and profits, or dividends, interest or other proceeds received by such person, or by any other person by his order or for his use in case he has been in possession of the property over which the mortgage extends or any part thereof, and the Court, if satisfied

that there ought to be a sale, shall direct notice to be given in such newspapers as the Court thinks fit, when and where, and by whom and in what way the said premises or property, or the interest therein so mortgaged, are to be sold, and that such sale be made accordingly, and that the official assignee (unless it is otherwise ordered) shall have the conduct of such sale; but it shall not be imperative on any such mortgagee to make such application. At any such sale the mortgagee may bid and purchase.

19. All proper parties shall join in the conveyance to the purchaser, as the Court directs.

20. The monies to arise from such sale shall be applied, in the first place, in payment of the costs, charges and expenses of and occasioned by the application to the Court, and of such sale and the commission (if any) of the official assignee, and in the next place in payment and satisfaction, so far as the same extend, of what shall be found due to such mortgagee, for principal, interest and costs, and the surplus of the sale moneys (if any) shall then be paid to the official assignee. But if the moneys to arise from such sale are insufficient to pay and satisfy what is so found due to such mortgagee, then he shall be entitled to prove as a creditor for such deficiency, and receive dividends thereon ratably with the other creditors, but so as not to disturb any dividend then already declared.

21. For the better taking of such inquiries and accounts, and making a title to the purchaser, all parties may be examined by the Court upon interrogatories or otherwise as the Court thinks fit, and shall produce before the Court upon oath all deeds, papers, books and writings in their respective custody or power relating to the estate or effects of the insolvent as the Court directs.

Periodical payments.

22. When any rent or other payment falls due at stated periods, and the order of adjudication is made at any time other than one of those periods the person entitled to the rent or payment may prove for a proportionate part thereof up to the date of the order as if the rent or payment grew due from day to day.

Interest.

23. (1) On any debt or sum certain whereon interest is not reserved or agreed for and which is overdue when the debtor is adjudged an insolvent, and which is provable under this Act, the

*The Presidency-towns Insolvency Act, 1909.**(The Second Schedule.—Proof of Debts. Third Schedule.—Enactments repealed.)*

creditor may prove for interest at a rate not exceeding six per centum per annum—

- (a) if the debt or sum is payable by virtue of a written instrument at a certain time, from the time when such debt or sum was payable to the date of such adjudication ; or,
- (b) if the debt or sum is payable otherwise, from the time when a demand in writing has been made giving the debtor notice that interest will be claimed from the date of the demand until the time of payment to the date of such adjudication.

(2) Where a debt which has been proved in insolvency includes interest or any pecuniary consideration in lieu of interest, the interest or consideration shall, for the purposes of dividend, be calculated at a rate not exceeding six per centum per annum, without prejudice to the right of a creditor to receive out of the debtor's estate any higher rate of interest to which he may be entitled after all the debts proved have been paid in full.

Debt payable at a future time.

24. A creditor may prove for a debt not payable when the debtor is adjudged an insolvent as if it were payable presently, and may receive dividends equally with the other creditors, deducting therefrom only a rebate of interest at the rate of six per centum per annum computed from the declaration of a dividend to the time when the debt would have become payable, according to the terms on which it was contracted.

Admission or rejection of proofs.

25. The official assignee shall examine every proof and, the grounds of the debt, and in writing admit or reject it in whole or in part, or require further evidence in support of it. If he rejects a proof, he shall state in writing to the creditor the grounds of the rejection.

26. If the official assignee thinks that a proof has been improperly admitted, the Court may, on the application of the official assignee, after notice to the creditor who made the proof, expunge the proof or reduce its amount.

27. The Court may also expunge or reduce a proof upon the application of a creditor if the official assignee declines to interfere in the matter, or in the case of a composition or scheme upon the application of the insolvent.

THE THIRD SCHEDULE.

(See section 127.)

ENACTMENTS REPEALED.

Year.	No.	Short title.	Extent of repeal.
<i>I.—Statute.</i>			
1848	11 & 12 Vict., c. 21.	The Indian Insolvency Act, 1848.	So much as has not been repealed.
<i>II—Acts of the Governor General in Council.</i>			
1841	XXVII	The Insolvent Estates (Unclaimed Dividends) Act, 1841.	So much as has not been repealed.
1898	X	The Indian Insolvency Rules Act, 1898.	Sections 2 and 3.
1900	VI	The Lower Burma Courts Act.	Section 8, sub-section (1), clause (d), and sub-section (2); and in section 17, in sub-section (1) the words "an official assignee", and in sub-sections (2) and (4) the words "official assignee."
1908	V	The Code of Civil Procedure, 1908.	Section 120, sub-section (2).

J. M. MACPHERSON,

Secretary to the Government of India.



The Gazette of India.

PUBLISHED BY AUTHORITY.

CALCUTTA, SATURDAY, MARCH 27, 1909.

Separate paging is given to this Part in order that it may be filed as a separate compilation.

PART IV.

Acts of the Governor General's Council assented to by the Governor General.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Act of the Governor General of India in Council received the assent of the Governor General on the 22nd March 1909, and is hereby promulgated for general information:—

ACT NO. IV OF 1909.

An Act to consolidate and amend the law relating to the punishment of whipping.

WHEREAS it is expedient to consolidate and amend the law relating to the punishment of whipping; It is hereby enacted, as follows:—

1. (1) This Act may be called the Whipping Short title and extent. Act, 1909; and

(2) It extends to the whole of British India, inclusive of British Baluchistan and the Santhal Parganas.

2. In addition to the punishments described in section 53 of the Indian Penal Code, offenders are also liable to the punishment of whipping.

3. Whoever commits any of the following offences, namely:—

(a) theft, as defined in section 378 of the Indian Penal Code other than theft by a clerk or servant of property in possession of his master;

(b) theft in a building, tent or vessel, as defined in section 380 of the said Code;

(c) theft after preparation for causing death or hurt, as defined in section 382 of the said Code;

(d) lurking house-trespass, or house-breaking, as defined in sections 443 and 445 of the said Code, in order to the committing of any offence punishable with whipping under this section;

(e) lurking house-trespass by night, or house-breaking by night, as defined in sections 444 and 446 of the said Code, in order to the committing of any offence punishable with whipping under this section;

may be punished with whipping in lieu of any punishment to which he may for such offence be liable under the said Code.

Offences punishable with whipping in lieu of or in addition to other punishment.

4. Whoever—

(a) abets, commits or attempts to commit, rape, as defined in section 375 of the Indian Penal Code;

(b) compels, or induces any person by fear of bodily injury, to submit to an unnatural offence as defined in section 377 of the said Code;

(c) voluntarily causes hurt in committing or attempting to commit robbery, as defined in section 390 of the said Code;

XLV of 1860.

Whipping added to punishments described in Act XLV, 1860.

Offences punishable with whipping in lieu of other punishment.

XLV of 1860.

(d) commits dacoity as defined in section 391 of the said Code; may be punished with whipping in lieu of or in addition to any other punishment to which he may for such offence, abetment or attempt be liable under the said Code.

5. Any juvenile offender who abets, commits Juvenile offenders or attempts to commit—when punishable with whipping.

(a) any offence punishable under the Indian Penal Code, except offences specified in Chapter VI and in sections 151A and 305 of that Code and offences punishable with death, or

(b) any offence punishable under any other law with imprisonment, which the Governor General in Council may, by notification in the Gazette of India, specify in this behalf, may be punished with whipping in lieu of any other punishment to which he may for such offence, abetment or attempt be liable.

Explanation.—In this section the expression "juvenile offender" means an offender whom the Court, after making such enquiry (if any) as may be deemed necessary, shall find to be under sixteen years of age, the finding of the Court in all cases being final and conclusive.

6. Whenever any Local Government has, by notification in the official Gazette, declared the provisions of this section to be in force in any frontier district or any wild tract of country within the jurisdiction of such Local Government, any person who in such district or tract of country after such notification as aforesaid commits any offence punishable under the Indian Penal Code with imprisonment for three years or upwards, may be punished with whipping in lieu of any other punishment to which he may be liable under the said Code.

7. To section 392, sub-section (2), of the Code of Criminal Procedure, 1898, the words "and, in the case of a person under sixteen years of age, it shall not exceed fifteen stripes" shall be added.

8. The enactments mentioned in the Schedule are hereby repealed to the extent specified in the fourth column thereof.

THE SCHEDULE.

(See section 8.)

ENACTMENTS REPEALED.

1	2	3	4
Year.	No.	Subject or short title.	Extent of repeal.

Acts of the Governor General in Council.

1864	VI	The Whipping Act, 1864.	So much as is unrepealed.
1895	III	The Indian Criminal Law Amendment Act, 1895.	Section 5.
1898	V	The Code of Criminal Procedure, 1898.	The words "whipping (if specially empowered,)" in sub-section (1) and sub-section (3) of section 32. The words and figures "(1) Power to pass sentences of whipping, section 32" under the heading "Powers with which a Magistrate of the second class may be invested" in Schedule IV.
1898	XIII	The Burma Laws Act, 1898.	Section 4, sub-section (3), clause (b), and the Second Schedule.
1900	V	The Whipping Act, 1900.	The whole Act.

J. M. MACPHERSON,

Secretary to the Government of India.

GOVERNMENT OF INDIA
LEGISLATIVE DEPARTMENT.

The following Act of the Governor General of India in Council received the assent of the Governor General on the 22nd March 1909, and is hereby promulgated for general information:—

ACT NO. V OF 1909.

An Act to amend certain enactments relating to the Army.

WHEREAS it is expedient to amend certain enactments relating to the Army in manner hereinafter appearing; It is hereby enacted as follows:—

1. This Act may be called the Amending (Army) Act, 1909.

Short title.

2. The enactments specified in the Schedule are hereby amended to the extent and in the manner mentioned in the fourth column thereof.

Amendment of enactments in Schedule.

column thereof.

THE SCHEDULE.

1	2	3	
Year	No.	Short title.	Amendments.

Acts of the Governor General in Council.

1869	XX	The Indian Volunteers' Act, 1869.	After section 7 insert the following:— "7-A. (1) The Commanding Officer of a Volunteer Corps may strike off the rolls in certain circumstances."
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1	2	3	4
Year	No.	Short title.	Amendments.

Acts of the Governor General in Council

— contd.

1869	XX— contd.	.....	off the rolls any volunteer not being an officer of the Corps under his command, who has been absent without leave for not less than six months, or has quitted the Corps otherwise than in accordance with section 23, or has been claimed as non-efficient for two consecutive years. (2) Every volunteer so struck off the rolls shall be deemed to have been removed from the Corps. In section 15, insert the words "removal or" before the words "dismissal therefrom".
1877	XI	The Military Lunatics Act, 1877.	For section 3 substitute the following:— "3. Whenever a European officer, warrant officer or soldier, declared lunatic, non-commissioned officer, soldier or other person subject to the provisions of the Army Act has been declared a lunatic in accordance with the provisions of the military regulations in force for the time being, and it appears to any administrative medical officer that it is inexpedient to retain him in the service, he may be struck off the rolls."

1	2	3	4	1	2	3	4
Year.	No.	Short title.	Amendments.	Year.	No.	Short title.	Amendments.
<i>Acts of the Governor General in Council—contd.</i>				<i>Acts of the Governor General in Council— concl.</i>			
1877	XI— contd.	...	<p>dient that he should be removed to England or that he should be detained in military custody until he can be conveniently sent to England, such administrative medical officer may, if he thinks fit, make an order under his hand for the reception of the said lunatic into any lunatic asylum which has been duly authorized for the purpose by the Governor General in Council ;</p> <p>and the officer in charge of such asylum shall receive the lunatic into the asylum and detain him therein until he is discharged therefrom, in accordance with the military regulations in force for the time being or until such administrative medical officer applies for his transfer to the military authorities in view to his removal to England."</p> <p>In section 7, for the words "general officer commanding the district or force" substitute the words "general or other officer commanding the division, district, brigade or force," and omit the word "other" before the words "officer authorized".</p>	1902	II— contd.	...	<p>In section 10, sub-section (1), for the words "General Officer of the Command" substitute the words "Officer Commanding the Division."</p> <p>In section 11, clause (d), for the words "General Officer of the Command" substitute the words "Officer Commanding the Division."</p> <p>In section 15, sub-section (1), for the word "District" substitute the word "Division."</p> <p>In section 35, sub-section (1), for the words "General Officer of the Command" substitute the words "Officer Commanding the Division."</p> <p>In section 36, sub-sections (2) and (3), for the words "General Officer of the Command", wherever they occur, substitute the words "Officer Commanding the Division."</p> <p>In section 37, for the words "General Officer of the Command" substitute the words "Officer Commanding the Division."</p> <p>In section 39, sub-sections (2), (3) and (4), for the word "District" substitute the word "Division."</p>
1889	XIII	The Cantonments Act, 1889.	<p>In section 13, for the words "European soldier, or to or for the use of any European or Eurasian being a follower or a soldier's wife" substitute the words "soldier, or follower, or soldier's wife".</p> <p>In section 15, sub-section (1), after the words "police-officer" insert the words "or excise-officer".</p>	1903	VII	The Indian Works of Defence Act, 1903.	<p>In section 2, for clauses (e) and (d) substitute the following :—</p> <p>"(c) the expression 'Division' means one of the Divisions into which the Army in India is, for the time being, divided, and includes the Bannu, Derajat and Kohat Independent Brigades ;</p> <p>"(d) the expression 'General Officer Commanding the Division' means the General Officer Commanding a Division, and includes the General Officers Commanding the Bannu, Derajat and Kohat Brigades."</p> <p>In section 7—</p> <p>(1) in clause (a), sub-clauses (i) and (iv), and clause (b), sub-clauses (i) and (ii), for the words "General Officer of the Command" substitute the words "General Officer Commanding the Division";</p> <p>(2) in clause (a), sub-clause (ii), and clause (b), sub-clause (i), for the word "District" substitute the words "Division, District or Brigade."</p>
1902	II	The Cantonments (House Accommodation) Act, 1902.	<p>In section 2, sub-section (1),—</p> <p>for clauses (b) and (c) substitute the following :—</p> <p>"(b) 'Division' means one of the Divisions into which the Army in India is, for the time being, divided, and includes the Bannu, Derajat and Kohat Independent Brigades ;</p> <p>(c) "Officer Commanding the Division means the Officer Commanding a Division, and includes the Officers Commanding the Bannu, Derajat and Kohat Brigades";</p> <p>in clause (e), for the words "General Officer of the Command" substitute the words "Officer Commanding the Division."</p>				

J. M. MACPHERSON,

Secretary to the Government of India.



The Gazette of India.

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CALCUTTA, SATURDAY, JANUARY 16, 1909

Separate paging is given to this Part in order that it may be filed as a separate compilation.

PART V.

Bills introduced in the Council of the Governor General of India for making Laws and Regulations, Reports of Select Committees presented to the Council, and Bills published under Rule 23.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Bill was introduced in the Council of the Governor General of India for the purpose of making Laws and Regulations on the 15th January 1909 :—

NO. 1 OF 1909.

A Bill to amend the Indian Paper Currency Act, 1905.

WHEREAS it is expedient to amend the Indian Paper Currency Act, 1905; It is hereby enacted as follows :—

1. (1) This Act may be called the Indian Paper Currency (Amendment) Act, 1909; and

(2) It extends to the whole of British India inclusive of British Baluchistan, the Santhal Parganas and the Pargana of Spiti.

2. In section 8, sub-section (3), of the Indian Paper Currency Act, 1905, the words "issued from any town not situate in Burma" shall be repealed.

3. For sections 14 and 15 of the said Act the following shall be substituted, namely :—

" 14. A currency note of the denomination: Currency notes where value of five rupees shall be a legal tender in any place in British India, and

a currency note of any denominational value exceeding five rupees shall be a legal tender at any place within the circle from which the note was issued,

for the amount expressed in the note, in payment or on account of—

- (a) any revenue or other claim, to the amount of five rupees or upwards, due to the Government of India, and
- (b) any sum of five rupees or upwards, due by the Government of India, or by any body corporate or person in British India:

Provided that no currency note shall be deemed to be a legal tender by the Government of India at any office of issue.

" 15. A currency note shall be payable at the Currency notes where following offices of issue, payable. namely :—

- (a) a currency note of the denominational value of five rupees, at any office of issue;
- (b) a currency note of any denominational value exceeding five rupees, at an office of issue in the town from which it was issued and also, unless issued, from any town in Burma, at an office of issue in the Presidency-town of the Presidency within which such town is situate."

V A

STATEMENT OF OBJECTS AND REASONS.

THE object of this Bill is to amend the Indian Paper Currency Act, 1905, so as to declare the universal five-rupee note, which is at present legal tender throughout British India with the exception of Burma, to be henceforth legal tender throughout all British India, including Burma, and to make it payable at all Currency Offices including that at Rangoon. No further issues of the separate Burma note of this denomination will be made after the new note is introduced.

GUY FLEETWOOD WILSON.

The 11th January 1909.

J. M. MACPHERSON,
Secretary to the Government of India.



The Gazette of India.

PUBLISHED BY AUTHORITY.

CALCUTTA, SATURDAY, FEBRUARY 6, 1909.

Separate paging is given to this Part in order that it may be filed as a separate compilation.

PART V.

Bills introduced in the Council of the Governor General of India for making Laws and Regulations, Reports of Select Committees presented to the Council, and Bills published under Rule 23.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Report of the Select Committee on the Bill to amend the Law of Insolvency in the Presidency towns and the Town of Rangoon was presented to the Council of the Governor General of India for the purpose of making Laws and Regulations on the 5th February 1909 :—

WE, the undersigned, Members of the Select Committee to which the Bill to amend the

From S. K. Chariar, Esq., Vakil, High Court, Madras, dated 16th June, 1908, and enclosure [Papers No. 1].
From High Court, Calcutta, No. 2521, dated 27th April, 1901 [Paper No. 2].
From Government, Bombay, No. 5020, dated 24th September, 1908, and enclosures [Papers No. 3].
From Government, Madras, No. 1333, dated 28th September, 1908, and enclosures [Papers No. 4].
From Government, Bengal, No. 1474 J.—D., dated 1st October, 1908, and enclosures [Papers No. 5].
From Government, Burma, No. 1136—L.—18, dated 25th September, 1908, and enclosures [Papers No. 6].
From Bar Association, Madras, dated 29th September, 1908 [Papers No. 7].
From Government, Burma, No. 111 M.—L.—18, dated 10th October, 1908, and enclosure [Papers No. 8].
From Government, Bengal, No. 1850 J.—D., dated 29th October, 1908, and enclosure [Papers No. 9].
From Government, Madras, No. 1595, dated 25th November, 1908, and enclosures [Papers No. 10].
From Administrator General, Bengal, No. 14259, dated 30th November, 1908 [Paper No. 11].

law relating to insolvency in the Presidency-towns and the Town of Rangoon was referred, have considered the Bill and the papers noted in the margin, and have now the honour to submit this our Report, with the Bill as amended by us annexed thereto.

2. We find that the Bill has been received with general approval by those consulted and that it is admitted to be a marked advance on the existing law. There are many criticisms of value on particular provisions and the greater part of these are met by the amendments which we have introduced. One objection only is taken to the Bill as a whole: it is the one to which attention was called in the Statement of Objects and Reasons, as to the power of the Indian legislature to deal with the subject of insolvency in such a way as to

maintain the existing law, without some further sanction from the Imperial Parliament. This objection has not met with general support, but it has the high authority of the Bombay High Court. We have carefully considered it, but for reasons which we will proceed to state we do not think that it should prevail.

3. The law of insolvency now in force in the Presidency-towns, the Act of 1848, is an enactment of the Imperial Parliament: it has effect therefore throughout the British dominions. But this Bill, if it becomes law, will be an Act of the Indian legislature and can therefore only operate in British India; it follows that a vesting order and an order of discharge cannot be given the same scope under this Bill as they have under the present law. On the other hand, if we are to wait for Imperial legislation, the amendment of the law may have to be postponed indefinitely. The question for the consideration of Council is whether we shall gain more by passing the Bill into law than we shall lose by giving up the advantages of an Imperial Act. We append to our report a note by our colleague, the Hon'ble Mr. Macleod, the Official Assignee of Bombay, in which this question is discussed in detail, and we agree in his conclusion that the Bill should be passed at once. We think that the Imperial Parliament might well be asked hereafter to enact a short Act to give the same wide effect to vesting orders and discharges made under the Bill after it becomes law as is given under the present Insolvency Act; but we do not think that the amendment of the law in India should wait upon Imperial legislation--for we are unanimously of opinion that the advantages to be gained under the Bill will altogether outweigh any disadvantages that may be suffered by giving up the present Act. If the law in the Presidency-towns rests on the authority of the Indian legislature alone, we shall at least be in no worse position than other British Colonies, and we believe that no difficulty has hitherto been found in giving effect to bankruptcy proceedings in any one of those Colonies either in the United Kingdom or elsewhere in the British dominions.

4. We venture to think that in the discussions on this subject the wide scope of section 118 of the Bankruptcy Act of 1883 has been overlooked. That section has effect throughout the British Empire and is binding on every British Court. It provides that all British Courts having jurisdiction in insolvency shall severally act in aid of and be auxiliary to each other in all matters of bankruptcy, and it enacts that "an order of the Court seeking aid, with a request to another of the said Courts, shall be deemed sufficient to enable the latter Court to exercise, in regard to the matters directed by the order, such jurisdiction as either the Court which made the request, or the Court to which the request is made, could exercise in regard to similar matters within their respective jurisdictions." This provision is in wide terms and we are of opinion that under it the assignee of an insolvent estate in India would have facilities for collecting assets in any place in the British dominions sufficient for all practical purposes. The effect of it has not, we think, been sufficiently explained hitherto, and we are not without hopes that a further consideration of the powers which it confers may modify the opinions of those who have entertained doubts as to the advisability of repealing the existing Act. We have inserted a clause (126) in the Bill to call the attention of Courts in India to this section and to make it incumbent on them to give effect to it.

5. The Madras Chamber of Commerce and the Solicitors' Association of that town have pointed out that under the Bill as introduced some question might arise as to the limits of the jurisdiction of the Courts acting under it. We have amended the wording to meet this point.

6. It has been suggested that the Bill should be extended to Karachi, but the Provincial Insolvency Act is now in force and under it there is for the first time a law of insolvency in that town as in the other trading centres in the Mufassal. The Act has been in operation for twelve months and we have not heard that it has been found inadequate; but in any case we would not advise an alteration of the law after so short a trial. If hereafter it be found desirable to extend this Bill to Karachi or other trading centres, that can easily be done.

7. We desire to point out that one effect of the Bill is to enable the Chief Justice to delegate responsible duties to the Registrar or other officer of the Court. If that is done we think that it will be necessary to appoint a trained lawyer to carry out these duties.

8. The number of clauses in the Bill in its present form has been increased. This is due to the fact that we have broken up some of the clauses in the Bill as introduced which were unduly long and cumbersome.

9. The particular amendments which we recommend will be found dealt with in detail in the Appendix to this Report. The main points on which changes have been made are these:—

(a) Under the Bill as introduced adjudication was to be made on creditors' petitions only after service of the petition on the debtor. We think that the present practice should be maintained and that adjudication should be made *ex parte* unless the Court thinks fit to direct service.

(b) Exception was taken by the High Courts of Calcutta and Bombay to the provision that adjudication should operate to release debtors from imprisonment.

We accept their view and have struck out this provision; and we have inserted a clause to enable a debtor to apply to the Court, as now, for a protection order from arrest.

(c) The provision as to the first meeting of creditors was compulsory under the Bill. We think that such meetings should be called only when directed by the Court, and we have introduced an amendment to give effect to that view. A Schedule with rules for meetings has been added.

(d) The title of the Official Assignee is made to relate back to the act of insolvency instead of to the date of the presentation of the petition.

(e) The existing criminal jurisdiction of the Insolvency Court has been maintained but directions have been given as to the procedure to be followed.

10. Among minor changes we have struck out those provisions which related to acts done after notice of the act of insolvency. The Committee which has recently sat to examine the Bankruptcy Law in England point out that a provision of this character must introduce an element of uncertainty into business transactions, and we agree with their view. We suggest that to constitute an act of insolvency, property must be sold, or attached for 21 days instead of being merely attached: and we have made the list of excepted articles the same as in the present Act. We have added provisions for the execution of warrants of the Insolvency Court.

11. We have had before us the Report of the English Committee on Bankruptcy to which reference has been made and, in framing the amendments to the Bill, have given full consideration to their suggestions.

12. We recommend that the Bill, if it is passed in the present session, should not come into force until the 1st January, 1910, in order that Courts and practitioners may have an opportunity of making themselves acquainted with the changes in the law effected by it.

13. The publication ordered by the Council has been made as follows:—

In English.

<i>Gazette.</i>	<i>Date.</i>
Gazette of India	21st March, 1908.
Port Saint George Gazette	31st March, 1908.
Bombay Government Gazette	2nd April, 1908.
Calcutta Gazette	25th March, 1908.
Burma Gazette	4th April, 1908.

In the Vernaculars.

<i>Province.</i>	<i>Language.</i>	<i>Date.</i>
Madras	Hindustani	16th June, 1908.
	Tamil	23rd June, 1908.
	Telugu	
Bombay	Marathi	9th June, 1908.
	Gujrati	
	Kanarese	
Bengal	Hindi	16th July, 1908.
	Uriya	18th August, 1908.
	Bengali	8th August, 1908.
Burma	Burmese	

14. We think that the Bill has not been so altered as to require re-publication, and we recommend that it be passed as now amended.

The 3rd February, 1909.

H. ERLE RICHARDS.
A. A. APCAR.
N. C. MACLEOD.
M. B. DADABHOY.

APPENDIX I.

NOTES ON PARTICULAR AMENDMENTS.

Clause 3.—The reference to the local limits of the jurisdiction of the Courts has been struck out. It is intended that the powers of the Courts should have effect throughout British India.

Clause 6.—The delegation of powers to officers of the Court has been vested in the Chief Justices instead of in the Court and the powers which may be delegated have been reduced. It is also provided that officers acting under these powers shall not be able to commit for contempt of Court.

Clause 8 (a) (a).—We have added words to prevent an appeal from a Judge except by leave.

Clause 9 (a).—The words "all or substantially all" have been inserted in accordance with a suggestion of the Bengal Chamber of Commerce.

(e) We think that attachment of itself should not be an act of insolvency. Our amendment provides that to constitute an act of insolvency the property must be sold or attached for a period of not less than 21 days.

Explanation.—Words have been added to give effect to the decision of the Privy Council in *Kastur Chand v. Dhanpat Singh*, I. L. R. 23 Cal. 26.

Clause 11.—Sub-clause (a) has been redrafted so as to provide for the case of a Presidency Jail being situate outside the limits of the Presidency-town. In sub-clause (c) provision has been made to bring within the jurisdiction of the Court debtors who personally work for gain in Presidency-towns, and a new sub-clause (d) has been added to deal with petitions by or against a firm trading within those limits.

Clause 13 has been amended to enable the Court to adjudicate *ex parte* as under the present practice, or to adjourn the hearing and direct service of the petition on the debtor. The clause has been re-drafted.

Clause 17.—The words "wherever situate" have been inserted in order to give the vesting order the widest possible effect. The clause as amended no longer operates to release a debtor who is in prison: this amendment is in accordance with the opinion of the High Courts of Calcutta and Bombay.

Clause 18.—The power of staying suits or other proceedings has been limited to proceedings before the Court itself, or before any other Court subject to its superintendence.

Clause 19.—The provision enabling the debtor to be appointed special manager has been struck out; clause 75 sufficiently provides for this matter.

Clauses 21 to 23.—The provisions as to annulment of adjudication have been broken up and re-arranged.

Clause 24.—The time for submitting a schedule has been enlarged to 30 days in accordance with the suggestion of the High Court of Bombay.

Clause 25 provides for protection orders to protect the insolvent from arrest and is framed on the lines of section 13 of the present Act.

Clause 26.—The Committee do not think it advisable that meetings of creditors should be held in every case; they have therefore amended the clause so that a meeting shall be held only when the Court so directs. A schedule of rules with respect to the summoning of and proceedings at meetings have been added.

Clauses 28 to 32.—The clauses as to composition and schemes of arrangement have been broken up into distinct sections. Some provisions have been added in conformity with the English law on this point.

Clauses 33 and 34.—The provisions as to arrest have been consolidated in this place.

Clause 35.—The words "and telegrams" were omitted from the original proof with intention as section 26 of the English Act only refers to letters; and international questions might be raised if the Court had power to order the re-direction of telegrams. The words "and telegraph," left in the original draft through inadvertence, have been struck out. The description of post letters has been somewhat amplified.

Clause 36(6).—Provision has been made here for the execution of orders made under sub-sections (4) and (5).

Clause 37.—It is thought that the Court should have power to issue commissions and letters of request for the examination of persons under section 36.

Clauses 38 to 43.—The provisions as to discharge have been re-arranged and the power to enter up judgment against an insolvent has been restricted to cases in which any of the facts referred to in clause 39 (2) are established. It seems hard on an honest insolvent that his after-acquired property should be liable to seizure. In clause 39 (2) (a) the limit has been reduced from six annas to four annas.

Clause 41 is new. It follows the lines of a recommendation of the recent English Committee.

Clause 46(2) is new. A definition of the word "liability" for the purposes of this clause has also been inserted in accordance with English law.

Clause 47.—Words have been added to this clause in conformity with the corresponding provision, section 38, of the Bankruptcy Act of 1883.

Clause 49.—Priority has been given to rent due to a landlord for one month in accordance with a suggestion of the High Court of Bombay. This is a new provision and it appears to the Committee to be equitable.

Clause 51.—The title of the assignee is made, by the amendment introduced in this clause, to date back to the act of insolvency, in accordance with the recommendations of the High Courts of Calcutta and Bombay.

Clause 52 (1).—An amendment has been made to maintain the existing law as to excepted articles in accordance with the suggestion of the Madras Chamber of Commerce, and two provisos have been added in conformity with the English law.

Clause 53 (1).—The protection is made to extend only to assets realised before the date of adjudication or before notice of the presentation of any insolvency petition, instead of before the date of the presentation of the petition as in the original Bill.

Clause 57.—A similar alteration has been made in this clause, in order to protect transactions between the insolvent and persons who have had no notice of the presentation of any petition.

Clause 62 (1).—The provision as to disclaimer has been made to apply to land of any tenure instead of to leaseholds only as in the Bill as introduced and the time for disclaimer has been extended to 12 months in conformity with the English Act.

Clauses 64—66 are new. They are taken from the English Act and are inserted in accordance with the suggestions of the High Courts of Calcutta and Bombay.

Clause 77.—An amendment has been made to provide for the appointment of an acting official assignee in accordance with the suggestions of the same High Courts.

Clause 79 (2) (a).—The words "in connection with his insolvency" have been added.

Clause 88 has been altered so as to give the power to appoint a Committee of Inspection to creditors who have proved only.

Clause 90 (1).—The general power and procedure of the Court have been provided for in this sub-clause instead of in clause 7 (1) as was done in the Bill as introduced and a proviso has been added to make it clear that the jurisdiction of the Court is not limited by this provision. Sub-clause (8) has been added at the request of the Chief Court of Lower Burma.

Clauses 100.—This is new but it seems to us to be necessary.

Clause 101.—A period of limitation has been provided in this clause for appeals from the acts or decision of official assignees or from orders made by officers of the Court appointed under section 6.

Clauses 103 and 104.—It is thought better to maintain the existing practice and to allow the Court itself to try the offences against the Act which are set out in clause 103. These proceedings will now be distinct from proceedings on applications for discharge. The procedure to be followed is indicated in clause 104.

Clause 106.—This clause has been modified in accordance with the suggestion of the High Court of Bombay and an examination of the insolvent will no longer be compulsory in cases of summary administration.

Clauses 108—111.—The provisions as to administration in insolvency of the estates of persons dying insolvent have been to some extent re-arranged and an amendment has been made to avoid interference with the Administrator General.

Clause 112.—The rule-making power has been amplified to provide for the payment of the remuneration of the official assignee, of the costs incurred in the prosecution of fraudulent debtors, and of any civil liability incurred by an official assignee acting under the order or direction of the Court.

Clause 115 has been re-drafted and the exemption extended to applications made to the Court by the Official Assignee.

Clause 116 is new but is thought useful.

Clause 121 has been altered so as to make it clear that it does not confer any right on a person who has not the right of audience before Insolvency Courts under the existing practice.

Clauses 122—123.—*Unclaimed dividends.*—Clause 100 of the Bill as introduced has been omitted, as unclaimed dividends in the hands of official assignees are already subject to the order of the Court and there is no necessity to provide in the Bill for their being paid into Court. Rules will prescribe the manner in which official assignees are to deal with unclaimed funds.

Clause 103 of the original Bill has also been struck out. There is no necessity to re-enact section 27 of the Act of 1841. That Act is obsolete and we understand that in Bombay, at any rate, it has always been found impracticable to follow it.

Clause 125 re-enacts the existing practice.

Clause 126 has been re-drafted with the particular object of calling attention of Courts to the fact that section 118 of the English Act binds them.

Schedule I is new. It is taken from the first schedule to the English Bankruptcy Act, the English Bankruptcy Rules and the Madras Rules.

Schedule II.—Clauses have been inserted to provide for taking accounts of property mortgaged and of the sale of mortgaged property.

APPENDIX II.

Note by the Hon'ble Mr. Macleod on the comparative advantages and disadvantages of the Indian Insolvency Act, 1848, and the Presidency Towns Insolvency Bill.

PART I.

The Judges of the Bombay High Court are of opinion that it is essential that any enactment for the administration of the property of insolvent debtors in the Presidency Towns should be passed directly by or under powers expressly granted for the purpose by the Imperial Parliament and that it is of the greatest importance that a discharge granted by the Courts in India should operate as a discharge in respect of all debts provable in the insolvency proceedings in India; they also point out that an Act of the Indian Legislature would be ineffective to secure for the Official Assignee immoveable property of insolvents situated in other British Possessions.

The Acting Official Assignee of Bombay and Acting Legal Remembrancer, Bombay, also consider that the desirability of the proposed legislation is open to question.

The Government of Bombay consider that these objections deserve careful consideration, and must, if held to be valid, result in the withdrawal of the Bill.

There can be no doubt that there are certain advantages secured by the present Act which must be given up if the Act is repealed and replaced by an Act of the Indian Legislature. On the other hand great advantages will be secured by the Bill, which do not exist at present, and which have long been demanded by the commercial community in India. The most important of these will be found enumerated in Part II. If the Bill is passed there still remains the possibility of Parliament passing hereafter an enabling Act, so as to enlarge the scope of the Indian Act.

Now all modern insolvency legislation must be considered from two points of view:—

- (1) that of the debtor who seeks the relief of the Court from his creditors,
- (2) that of the creditor who demands —
 - (a) the power to adjudicate his debtor on the commission of certain acts,
 - (b) the speedy collection and equitable distribution of his assets, and
 - (c) an official inquiry into his conduct.

So that when comparing the advantages which will accrue from the Bill, with those which exist under the Act, they must fall into two classes:—

- (1) those which benefit debtors, and
- (2) those which benefit creditors.

The commercial community no doubt consider the second class of far greater importance than the first. They are unanimously in favour of the proposed legislation.

The Judges of the Bombay High Court have not only considered the interests of creditors, but also the interests of future insolvents.

But both on general principles and from general experience, it may be laid down with confidence that creditors require greater means of protection from their debtors, than debtors from their creditors. The second class of advantages must therefore be considered as claiming priority to the first; if it can be shown that the Bill increases to a very great extent class I while only slightly diminishing class II its desirability is proved. It is proposed, however, to show that while a debtor may lose under the Bill certain advantages which he now possesses under the Act, that loss is amply compensated for by other advantages which he will gain under the Bill.

To deal first with the advantages in class II.

It is generally recognized that these will be largely increased by the Bill. As pointed out by the Bombay High Court there is one setback, for whereas under the Act immoveable property in British Possessions outside British India vests in the Official Assignee it will no longer do so under the Bill. However, it very rarely happens that an Indian insolvent possesses immoveable property in such British Possessions. If he does, it appears from the judgment of Kay, J., in *re Levy's Trusts* (30 Ch. Div. 119) that the Official Assignee could apply under section 118 of the Bankruptcy Act to any British Court exercising bankruptcy jurisdiction for an order which would make the Indian vesting order effective as regards land within the jurisdiction of such Court, provided the vesting order purported to deal with such land. The Bill as proposed to be amended will do this, only in such a case the title of the Official Assignee would date from the order made by such Court. Apart from the power the Indian Courts will have to compel insolvents to execute conveyances of immoveable property abroad, the prospective loss to creditors of Indian insolvents under this head may be considered as practically *nil*.

In the first place the actual effect of a vesting order under the Act has to be considered with regard to property of the insolvent which has not been delivered over by him to the Official Assignee.

The Official Assignee may have a perfectly good statutory title, but that is of little use for the purposes of realisation without possession. In the case of immoveable property the Official Assignee by virtue of his vesting order may endeavour to sell, but unless he is in possession he will not find a purchaser. It makes no difference whether the property is in the British Empire or without. If he is in possession in the one case he can convey himself, in the other the insolvent would have to convey according to the law of the foreign country in which the property was situated. Even within the British Empire the requirements of local laws would have to be complied with. But the point is that if an insolvent is honest it does not matter much where his property is; it can be realised or reduced into possession; if he is dishonest, it is equally difficult to get possession of or realise his property, wherever it may be.

In the case of moveable property also, if the Official Assignee has to take proceedings to get possession, he must prove his title like any other person.

Mr. Muir Mackenzie in advising the Board of Trade in 1900 on the question whether section 118 of the Bankruptcy Act of 1883 required alteration relates an instance of an Indian Official Assignee attempting to obtain possession of moveable property in England belonging to an Indian insolvent which shows that a vesting order even under the present Act has not always the immediate effect of enabling the official assignee to get possession. Mr. Muir Mackenzie says—

"In each case (as it appears to me) it must be a question for the Colonial Court to which application is made for the enforcement of a claim to property within the jurisdiction of the Court, to decide whether the applicant is or is not entitled to the property to which he asserts a claim; and this principle must apply to a claim by a trustee in bankruptcy outside the colony as to any other claim. I will put a perfectly simple case taken from papers which have been recently before me. A person who was originally English went to India, acquired an Indian domicile and became bankrupt in India. During the continuance of the bankruptcy some personal property in England devolved in England on the bankrupt.

The Indian assignee sent over to England a power-of-attorney to a person in England to represent him, who in the name of the assignee asserted a claim to the property. The claim was disputed by the trustees by whom the property in question is held in trust and the matter is now pending. The court here must be satisfied first of all of the title of the Indian assignee; and secondly, that the property which is in dispute has devolved upon the bankrupt during the bankruptcy; and thirdly, that in the circumstances it is property which has vested in the Indian assignee by virtue of the general principles which apply to cases of the kind."

Before the Bankruptcy Act of 1869 the question whether an Official Assignee by virtue of his vesting order could get possession of or dispose of property outside the jurisdiction of the Court appointing him, depended mainly on the domicile of the insolvent. It seems doubtful in the case of an insolvent not domiciled in India to what extent an Indian vesting order whether made under an Imperial Act or an Indian Act would be recognized as effecting a transfer of property outside British India, by a Foreign Court.

The decision of Sir W. M. James, L. J. in *re Davidson's Settlement Trusts* L. R. 15 Equity 383 shows that it would be recognized by a Court of Chancery in England as effecting a transfer of moveable property, provided that the insolvent had been adjudicated on his own petition. On the other hand from the decisions in *re Blythman*, L. R. 2 Eq. 23 and *re Hayward*, 1897, 1 Ch. 905 it would appear that the English Chancery Courts would not recognize the title of a Colonial Assignee of a non-domiciled insolvent adjudicated on a creditor's petition. Under section 218 of the Bankruptcy Act of 1861 the assignee or trustee of an Indian or Colonial insolvent residing or possessed of property in England, Ireland or Scotland, or in any other colony could apply for the adjudication of the insolvent to the Bankruptcy Court in England or the proper Court in Ireland or Scotland or such other colony. This provision was evidently intended to meet the case of an Indian or Colonial insolvent possessing assets in England, or elsewhere within the British Empire, and the fact that the Indian Insolvency Act was an Imperial Statute was probably overlooked. This section was not reproduced in the Bankruptcy Act of 1869, for section 74 of that Act for the first time imposed on every British Court exercising jurisdiction in bankruptcy or insolvency the obligation to act as auxiliary in all matters of bankruptcy at the request of another such Court. Thus the necessity for concurrent adjudications was removed and all these questions whether the bankrupt was domiciled or non-domiciled, whether the property was moveable or immoveable or whether the bankrupt had been adjudicated on his own or on a creditor's petition were relegated to the back ground.

Section 74 of the Bankruptcy Act of 1869 was reproduced in the Bankruptcy Act of 1883 by section 118 and the decisions of the Courts show that any British Court exercising bankruptcy jurisdiction, provided that concurrent proceedings are not pending before it, will now give effect as far as it can to the vesting order of another British Bankruptcy Court. The only difference being that in those cases in which the vesting order would not be recognized as effecting by itself a transfer of property, the title of the Official Assignee will commence from the date of the order of the Court acting as auxiliary instead of from the date of the vesting order.

Mr. Muir Mackenzie says, "If the laws which are in force in any particular colony are not effective to enforce in that colony the right of trustees of the properties of persons who

have become bankrupt in the United Kingdom or in other colonies, it may be expedient to amend the laws of that particular colony, but it appears to me that as regards the general law, the existing Imperial Legislation coupled with the principles which are laid down in the decisions of the Courts are sufficient. . . . Lastly as regards section 118 of the Bankruptcy Act, I cannot advise that it requires amendment. The section is used often in practice in this country to enable a local Court to obtain the aid of the High Court or of another local Court, and also less frequently to enable the Courts in the colonies and India which exercise insolvency jurisdiction to obtain the aid of the High Court here or to enable the High Court here to obtain the aid of the Colonial Court. No difficulty has, as far as I am aware, been found in making the provisions of the section work effectively."

The acting Official Assignee of Bombay has failed to take into account certain recognized principles of private international law and he is also under the erroneous impression that section 118 of the English Bankruptcy Act of 1883 will not apply to the Courts which will be given insolvency jurisdiction by the Bill. The wide scope of this section has not been properly realised in India.

Mr. Read, the Official Assignee of Madras, estimates far more correctly the advantages which exist under the Act, though he may not have had so much experience of insolvents with assets in such colonies as Hongkong, the Straits Settlements, Mauritius and British East Africa as the Bombay Official Assignees, since he refers only to insolvents having assets in England. He points out that sections 77 to 80 of the Act provide for concurrent bankruptcies in India and England, and enable any creditor of an Indian insolvent to sue out a fiat of bankruptcy in England within two months after notice of the insolvency has been given in the London Gazette, and the assignee under the fiat would be entitled as from the date of the issuing of the fiat to all property of the insolvent outside the limits of the Charter of the East India Company which had not been taken possession of by the Indian assignee, so that the effect of the Indian vesting order is liable to be curtailed by concurrent bankruptcy proceedings in England, provided the insolvent is subject to the bankruptcy laws then in force in England. Mr. Read says, "If the vesting clause was wide enough, and there were no concurrent proceedings in England, I think it would be recognized by the English Courts and given effect to. As has been pointed out, there is no reason why it should not be given effect to in any suitable case, as for instance when the insolvent has no creditors in England. It is only in simple cases of that kind that the Act is even now practically effective, since if there are any creditors in England concurrent proceedings are invariably instituted. I am of opinion that in practice we get very few of the advantages which the present Act gives us on paper as regards English assets, and that it is probable that in such cases as they are now effective they would continue to be so under the new Act, particularly if the vesting order clause was extended to include property wherever situate."

This argument appears to be perfectly sound, though it should be noted that the fact that an Indian insolvent had creditors in England would not by itself give the English Courts jurisdiction. There is no reason why the vesting order in the Bill should not be made as wide as possible, and objections which may be raised in particular cases outside British India can be dealt with on their merits as they arise. A precedent can be found in the New Zealand Bankruptcy Act, 1892 (56 Vict. No. 24) which enacts that "upon adjudication the property of the bankrupt whatsoever and wheresoever situate shall vest in the Official Assignee of the Court in which the order of adjudication was made, as such assignee." The vesting order under the English Bankruptcy Act purports to vest immovable property in foreign countries, and to that extent would certainly not be effective unless especially recognized by the law of the foreign country in which the property was situate.

Disregarding for the moment the provision of section 118 of the Bankruptcy Act of 1883 the only case in which present advantages will be surrendered by the exchange of an Indian Act for an Imperial Statute is that of a domiciled insolvent having immoveable property in the British Empire outside British India. This very rarely occurs, but insolvents often own immoveable property situate in Native States. Though the vesting order under the Act purports to vest property wherever situate, it is obvious that it cannot operate as a transfer of immoveable property outside the British Empire and even in the case of immoveable property within the Empire the requisition of any local law will have to be complied with. Even if the local law recognized a transfer by the Official Assignee, he would find it almost impossible to dispose of the property without the concurrence of the insolvent. The power now given to the Court to compel an insolvent to execute a conveyance of immoveable property in favour of the Official Assignee together with the right of the Court under section 118 of the Bankruptcy Act to seek the aid of any other British Court exercising insolvency jurisdiction should be sufficient to enable the Official Assignee to realise such property wherever situate, whereas the advantages now possessed owing to the vesting order operating as a statutory transfer of immoveable property within the Empire but outside British India are of very slight value. Such as they are, it may safely be assumed that the commercial community will readily give them up in consideration of the advantages which they will obtain under the Bill.

Lastly, it is necessary to compare the advantages which now accrue to a debtor under the Act, as compared with those which he will possess under an Indian Act.

As regards the protection of his person from arrest or detention pending the insolvency proceedings, there will be no change if the Bill is amended as proposed. As now his person will be protected provided he conforms to the provisions of the Act and is not guilty of inordinate delay. As regards the proceedings for a discharge there will be a change. Under the present Act he has first to serve his creditors with notices for a first hearing of his petition. At the first hearing he can get his personal discharge, which will protect him from arrest in respect of all demands inserted in his schedule or established in the Court. But judgment can be entered up against him in the name of the Official Assignee for the amount of the debts stated in the schedule as due and of such as have been established in Court. The vesting order still remains effective as regards any after-acquired property. Afterwards the insolvent if a non-trader, provided his estate has paid one-third of his debts, can proceed to get a discharge in the nature of a certificate by following the procedure laid down under section 59, which will discharge him personally and also his after-acquired property from the demands of all the creditors named in the order *nisi*. Still if judgment has been entered up against him under section 86 the Court may give leave for such decree to be executed. If the insolvent is a trader, he can get a discharge in the nature of a certificate from all demands which would be discharged by a certificate under the Bankruptcy Laws granted under a fiat bearing even date with the insolvent's petition or with the adjudication, as the case may be, and such a discharge has been held to be a discharge from all debts provable in insolvency, whether mentioned in the schedule or not. The Court, however, can direct notices to be served on creditors and can limit the effect of the discharge as it thinks fit. Still if judgment has been entered up under section 86 the Court may order execution to be taken out upon such judgment. In Bombay it has always been the practice to enter up judgment against every insolvent at the time of granting him his personal discharge, so that a discharge in the nature of a certificate only causes the vesting order to cease being effective as regards his after-acquired property. With the leave of the Court it can always be attached in execution of such judgment.

Further, under the present Act, if concurrent proceedings have been instituted in England, the discharge under sections 59 or 60 will only operate as regards creditors residing within the limits of the Charter of the East Indian Company, and the insolvent would have to get a certificate from the English Bankruptcy Court to release him from the claims of any other creditors, by virtue of the provisions of section 83.

It is proposed by the Bill that an insolvent whether a trader or not will be able to get an unconditional discharge at the first hearing against all debts provable in insolvency. The only question is what effect would be given to such an order of discharge by the Courts in England or the Colonies. If the debt or liability has been contracted or has arisen or is to be paid or satisfied in British India, the discharge of the Indian Courts will be recognized by the Courts in England and the colonies. It will also be recognized by foreign courts under the principles of private international law adopted in other countries.

If the debt or liability has been contracted or has arisen or is to be paid or satisfied outside British India, the discharge of the Indian Courts will not operate as a discharge in England or elsewhere.

Such debts or liabilities will not often appear in the schedules of Indian insolvents, and even under the Act they cannot get their discharge from the claims of creditors residing outside the limits of the Charter, if concurrent proceedings have been instituted in England. If there are assets in India, foreign creditors will in all probability prove in the Indian insolvency proceedings; if there are no such assets, they are not likely to trouble the insolvent. In any event they could not do so as long as he remained in British India. To counterbalance this an insolvent will be able to get his discharge from his Indian debts, and unless judgment has been entered up against him will be freed from all liability as regards his after-acquired property by a simpler and more expeditious procedure than at present.

Further it is proposed to amend the Bill so as to limit the power of the Court to enter up judgment against an insolvent to those cases only in which one or more of certain facts have been proved against an insolvent seeking his discharge.

It may therefore be safely assumed that the advantages which will accrue to an honest insolvent under the proposed Indian legislation will be considerably greater than those he now possesses under the present Act.

PART II.

The principal advantages which will be secured by the Presidency Towns Insolvency Bill.

1. Insolvency Law for India will be laid down concisely according to the methods of modern drafting as compared with the cumbrous and verbose method employed in the Act of 1848.
General.
2. The interests of creditors will be properly protected, whereas the main object of the Act of 1848 was to relieve insolvent debtors.
3. The Acts of Insolvency on which a creditor can petition under the Act of 1848 are so limited that it is difficult for a creditor to bring his debtor into the insolvent court before he has made away with his assets. Available acts of insolvency will now be extended so as to correspond with the Acts of Bankruptcy under the English Act with the exception of the refusal to comply with a bankruptcy notice.
Acts of Insolvency.
4. The title of the Official Assignee will relate back to the date of the first act of insolvency proved to have been committed within three months preceding the date of the petition on which an order of adjudication is made, instead of only to the date of the filing of the petition.
Title of the Official Assignee.
5. Increased powers will be given to the Court to compel the attendance of persons suspected of having in their possession property belonging to an insolvent, and to procure the production of such property by issue of search warrants.
Facilities for getting possession of concealed property.
6. In every insolvency to which the summary procedure is not applicable the insolvent will be publicly examined in open Court.
Public examination of Insolvents.
7. The duties of an insolvent are clearly defined by the Bill and wilful failure to comply with any of them is made punishable as a contempt of Court. This is not the case under the Insolvency Act. If an insolvent does not disclose his affairs or assist the Official Assignee a special order has to be obtained from the Court, and the order has to be served personally on the insolvent before any proceedings in contempt can be instituted.
Duties of Insolvents.
8. The powers and duties of the Official Assignee will have relation both to the conduct of the insolvent and to the administration of his estate. Under the Insolvency Act his functions are limited to the collection and distribution of assets.
Functions of the Official Assignee.
9. Express provision is made for meetings of creditors, and the procedure to be followed at such meetings is prescribed by rules.
Meetings of creditors.
10. Under the Insolvency Act the Court has no power to scrutinize arrangements between insolvents and their creditors. Negotiations take place without the cognizance of the Court or of the Official Assignee, and it is only when all the creditors have agreed to a composition, that the insolvent comes to Court for leave to withdraw his petition, or for an order to revoke his adjudication. A minority of creditors can hold out for higher terms to induce them to consent, and a dishonest insolvent can escape from having his conduct investigated by the Court.
Composition and schemes of arrangements.
- Under the Bill a proposal for a composition will first have to be circulated to all the creditors and considered by the Official Assignee. A majority of creditors will have the power to bind the minority, and finally the proposals of the insolvent must be approved by the Court.
11. The Court will have power under certain circumstances to issue a warrant for the arrest of an insolvent.
Arrest of insolvents.
12. The Court will have power to order the redirection to the Official Assignee of letters addressed to insolvents.
Redirection of insolvent's letters.
13. The rights of execution creditors will be restricted. For many years it was considered that only attachments before judgment were affected by a vesting order and that attachments after judgment were good as against the Official Assignee. Recent decisions of the High Courts have enabled the Official Assignee to recover property attached after judgment but not realised by sale before the date of the vesting order, and the Bill will give effect to these decisions.
Restriction of rights of execution creditors.

14. Express provision is made for the proof of debts, whereas under the Act, the English Law in force for the time being on the subject has to be applied by virtue of section 40. This has been found to work most unsatisfactorily. For instance it has been held in India that section 40 does not make the English Bankruptcy Rules as to proof of debts applicable.
15. The Bill provides for the disclaimer of onerous property by the Official Assignee in the same terms as the English Bankruptcy Act.
16. It is proposed to enable a petition to be presented by or against a firm, instead of by or against the individual partners. Under the Insolvency Act a partner residing outside the local limits of the Court cannot join in a petition with his partners who reside within those limits unless he is in jail within those limits.
17. Provision is made in the Bill for the appointment if considered desirable of a committee of inspection which can be given by rules certain powers to control the proceedings of the Official Assignee.
18. The Bill makes it an offence for an undischarged insolvent to obtain credit for any sum over fifty rupees without disclosing that he is an undischarged insolvent.
19. The Bill provides for the summary administration of small insolvencies.
20. The Bill provides for the administration in insolvency of the estates of persons insolvent.
21. The Rules made by the Courts will require only the sanction of the Governor General or the Local Government instead of having to be confirmed by His Majesty the King.
22. Under the Bill an insolvent will no longer have to make separate applications for a discharge to protect his person and a discharge to protect his property. At any time after his public examination he will be able to apply for an absolute discharge.
- At the same time it will be the duty of the Official Assignee to report to the Court regarding his conduct. The opposition therefore to an insolvent's discharge will mainly proceed from the Official Assignee, instead of being left in the hands of the creditors. The report of the Official Assignee will be *prima facie* evidence, and proceedings on applications for discharge will be considerably shortened.
23. It is proposed to retain the original criminal jurisdiction now possessed by the Insolvent Courts but to regulate the procedure under which charges of a criminal nature can be brought against an insolvent and disposed of by the Court. Under the Act when an insolvent applies for his personal discharge, the Court can either deal with the grant or suspension of his discharge or try the question whether he has been guilty of an offence under the Act. No rules of procedure suitable for a criminal trial have been formulated and the Official Assignee has no voice in the proceedings. Under the Bill proceedings against an insolvent for offences under the Act will be quite distinct from proceedings on his application for his discharge. He will receive proper notice of the specific offences with which he is charged, and the procedure at the hearing of the charges will be governed by certain provisions of the Criminal Procedure Code.

N. C. MACLEOD.

The 1st February 1909.

[AS AMENDED BY SELECT COMMITTEE.]

No. II.

THE PRESIDENCY-TOWNS INSOLVENCY BILL.

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THE FIRST SCHEDULE.—MEETINGS
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REPEALED

*The Presidency-towns Insolvency Bill.**(Part I.—Constitution and Powers of Court.)*

[As amended by Select Committee.]

[An asterisk indicates that words which appeared in the original Bill, as introduced, have been omitted, the italicised portions are new matter.]

[Except where otherwise indicated, the marginal references are to the Indian Insolvency Act of 1848 (11 & 12 Vict., c. 21).]

No. II.

BILL

TO

Amend the Law of Insolvency in the Presidency-towns and the Town of Rangoon.

WHEREAS it is expedient to amend the law relating to insolvency in the Presidency-towns and the town of Rangoon; It is hereby enacted as follows:—

PRELIMINARY.

1. (1) This Act may be called the Presidency-towns Insolvency Act, 1909.

(2) It shall come into force on the first day of January 1910.

2. In this Act, unless there is anything repugnant in the subject or context,—

- Definitions.
- (a) "creditor" includes a decree-holder;
 - (b) "debt" includes a judgment-debt, and "debtor" includes a judgment-debtor;
 - (c) "official assignee" includes an acting official assignee;
 - (d) "prescribed" means prescribed by rules;
 - (e) "property" includes any property over which or the profits of which any person has a disposing power which he may exercise for his own benefit;
 - (f) "rules" means rules made under this Act;
 - (g) "secured creditor" includes a landlord who under any enactment for the time being in force has a charge on land for the rent of that land;
 - (h) "the Court" means the Court exercising jurisdiction under this Act; and
 - (i) "transfer of property" includes a transfer of any interest therein and any charge created thereon.

PART I.

CONSTITUTION AND POWERS OF COURT.

Jurisdiction.

3. The Courts having jurisdiction in insolvency under this Act shall be—

- (a) the High Courts of Judicature at Fort William, Madras and Bombay; and

(b) the Chief Court of Lower Burma.

* * * *

4. All matters in respect of which jurisdiction is given by this Act shall be exercised by a single Judge. ordinarily transacted and disposed of by or under the direction of one of the Judges of the Court, and the Chief Justice or Chief Judge shall, from time to time, assign a Judge for that purpose.

5. Subject to the provisions of this Act and of the rules, the Judge of a Court exercising jurisdiction in insolvency may exercise in chambers the whole or any part of his jurisdiction.

6. (1) The * * Chief Justice or Chief Judge may, from time to time, direct that, in any matters in respect of which jurisdiction is given to the Court by this Act; an officer of the Court appointed by * him in this behalf shall have all or any of the powers in this section mentioned; and any order made or act done by such officer in the exercise of the said powers shall be deemed the order or act of the Court.

(2) The powers referred to in sub-section (1) are the following, namely:—

(a) to hear insolvency petitions presented by debtors, and to make orders of adjudication thereon;

(b) to hold the public examination of insolvents;

* * * *

(c) to make any order or exercise any jurisdiction which is prescribed as proper to be made or exercised in chambers;

(d) to hear and determine any unopposed or *ex parte* application;

* * * *

(e) to examine any person summoned by the Court under section 36.

(3) An officer appointed under this section shall not have power to commit for contempt of Court.

7. Subject to the provisions of this Act, the Court shall have full power to decide all questions of priorities, and all other questions whatsoever, whether of law or fact, which may arise in any case of insolvency coming within the cognizance of the Court, or which the Court may deem it expedient or necessary to decide for the purpose of doing complete justice or making a complete distribution of property in any such case.

[46 & 47
Vict., c. 52,
s. 168;
Act III 1907,
s. 2.]

[46 & 47
Vict., c. 52,
s. 94.]

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(Part I.—Constitution and Powers of Court. Part II.—Proceedings from Act of Insolvency to Discharge.)

Appeals.

8. (1) The Court may review, rescind or vary any order made by it under its insolvency jurisdiction.

(2) Orders in insolvency matters shall, at the instance of any person aggrieved, be subject to appeal as follows, namely :—

- (a) an appeal from an order made by an officer of the Court empowered under section 6 shall lie to the Judge assigned under section 4 for the transaction and disposal of matters in insolvency and no further appeal shall lie except by leave of such Judge ;
- (b) save as otherwise provided in clause (a), an appeal from an order made by a Judge in the exercise of the jurisdiction conferred by this Act shall lie in the same way and be subject to the same provisions as an appeal from an order made by a Judge in the exercise of the ordinary original civil jurisdiction of the Court.

PART II.

PROCEEDINGS FROM ACT OF INSOLVENCY TO DISCHARGE.

Acts of insolvency.

9. A debtor commits an act of insolvency in each of the following cases, namely :—

- (a) if, in British India or elsewhere, he makes a transfer of all or substantially all his property to a third person for the benefit of his creditors generally ;
- (b) if, in British India or elsewhere, he makes a transfer of his property or of any part thereof with intent to defeat or delay his creditors ;
- (c) if, in British India or elsewhere, he makes any transfer of his property or of any part thereof, * * * which would, under this or any other enactment for the time being in force, be void as a fraudulent preference if he were adjudged an insolvent ;
- (d) if, with intent to defeat or delay his creditors,—
 - (i) he departs or remains out of British India,

- (ii) he departs from his dwelling-house or usual place of business or otherwise absents himself,
- (iii) he secludes himself so as to deprive his creditors of the means of communicating with him ;

- (e) if any of his property has been sold or attached for a period of not less than twenty-one days in execution of the decree of any Court for the payment of money ;
- (f) if he petitions to be adjudged an insolvent ;
- (g) if he gives notice to any of his creditors that he has suspended, or that he is about to suspend, payment of his debts ;
- (h) if he is imprisoned in execution of the decree of any Court for the payment of money.

Explanation.—For the purposes of this section, the act of an agent may be the act of the principal, even though the agent have no specific authority to commit the act.

Order of adjudication.

10. Subject to the conditions specified in this Act, if a debtor commits an act of insolvency, an insolvency petition may be presented either by a creditor or by the debtor, and the Court may on such petition make an order (hereinafter called an order of adjudication) adjudging him an insolvent.

Explanation.—The presentation of a petition by the debtor shall be deemed an act of insolvency within the meaning of this section, and on such petition the Court may make an order of adjudication.

11. The Court shall not have jurisdiction to make an order of adjudication, unless—

- (a) the debtor is, at the time of the presentation of the insolvency petition, imprisoned in execution of the decree of a Court for the payment of money in any prison to which debtors are ordinarily committed by the Court in the exercise of its ordinary original jurisdiction ; or
- (b) the debtor, * * * * *, within a year before the date of the presentation of the insolvency petition, has ordinarily resided or had a dwelling-house or has carried on business either in person or through an agent within the limits of the ordinary, original civil jurisdiction of the Court ; or
- (c) the debtor personally works for gain within those limits ; or

[46 & 47
Vict., c. 52, s.
104.]

[46 & 47
Vict., c. 32,
s. 41
Act III, 1907,
s. 41]

[46 & 47
Vict., c. 52, s.
51
Act III, 1907,
s. 5.]

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(d) in the case of a petition by or against a firm of debtors, the firm has carried on business within a year before the date of the presentation of the insolvency petition within those limits.

[S. 8 and
cf. 46 & 47
Vict., c. 52,
s. 6: Act III,
1907, s. 6 (4),
5.]
[S. 6 (4).]

12. (1) A creditor shall not be entitled to present an insolvency petition against a debtor unless—

(a) the debt owing by the debtor to the creditor, or, if two or more creditors join in the petition, the aggregate amount of debts owing to such creditors, amounts to five hundred rupees, and

[S. 10.]

(b) the debt is a liquidated sum payable either immediately or at some certain future time, and

(c) the act of insolvency on which the petition is grounded has occurred within three months before the presentation of the petition.

(2) If the petitioning creditor is a secured creditor, he shall in his petition either state that he is willing to relinquish his security for the benefit of the creditors in the event of the debtor being adjudged insolvent or give an estimate of the value of the security. In the latter case he may be admitted as a petitioning creditor to the extent of the balance of the debt due to him after deducting the value so estimated in the same way as if he were an unsecured creditor.

[46 & 47
Vict., c. 52,
s. 7:
Act III, 1907,
s. 14.]

13. (1) A creditor's petition shall be verified by affidavit of the creditor, or of some person on his behalf having knowledge of the facts. * * *

(2) At the hearing the Court shall require proof of—

(a) the debt of the petitioning creditor, and

(b) the act of insolvency or, if more than one act of insolvency is alleged in the petition, some one of the alleged acts of insolvency. * * *

(3) The Court may adjourn the hearing of the petition and order service thereof on the debtor.

(4) The Court shall dismiss the petition—

(a) if it is not satisfied with the proof of the facts referred to in sub-section (2); or

(b) if the debtor appears and satisfies the Court that he is able to pay his debts, or that he has not committed an act of insolvency or that for other sufficient cause no order ought to be made.

(5) The Court may make an order of adjudication if it is satisfied with the proof above

referred to, or if on a hearing adjourned under sub-section (3) the debtor does not appear and service of the petition on him is proved, unless in its opinion the petition ought to have been presented before some other Court having insolvency jurisdiction.

(6) Where the debtor appears on the petition and denies that he is indebted to the petitioner, or that he is indebted to such an amount as would justify the petitioner in presenting a petition against him, the Court, on such security (if any) being given as the Court may require for payment to the petitioner of any debt which may be established against the debtor in due course of law, and of the costs of establishing the debt, may, instead of dismissing the petition, stay all proceedings on the petition for such time as may be required for trial of the question relating to the debt.

(7) Where proceedings are stayed, the Court may, if by reason of the delay caused by the stay of proceedings or for any other cause it thinks just, make an order of adjudication on the petition of some other creditor, and shall thereupon dismiss, on such terms as it thinks just, the petition on which proceedings have been stayed as aforesaid.

(8) A creditor's petition shall not, after presentation, be withdrawn without the leave of the Court.

14. A debtor shall not be entitled to present an insolvency petition unless— [Act III, 1907, s. 6 (3).]
Conditions on which debtor may petition. less—

(a) his debts amount to five hundred rupees, or

(b) he has been arrested and imprisoned in execution of the decree of any Court for the payment of money, or

(c) an order of attachment in execution of such a decree has been made and is subsisting against his property.

15. (1) A debtor's petition shall allege that the debtor is unable to pay his debts, and, if the debtor proves that he is entitled to present the petition, the Court may thereupon make an order of adjudication, unless in its opinion the petition ought to have been presented before some other Court having insolvency jurisdiction. [Ss. 5, and 46 & 47 Vict., c. 52, s. 8.]

(2) A debtor's petition shall not, after presentation, be withdrawn without the leave of the Court. * * *

16. The Court may, if it is shown to be necessary for the protection of the estate, at any time after the presentation of an insolvency petition and before an order of adjudication is made, appoint the official assignee to be interim receiver of the property of the debtor, or of any part thereof, [S. 13; and 46 & 47 Vict., c. 52, s. 10 (1).]
Discretionary powers as to appointment of interim receiver.

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and direct him to take immediate possession thereof or any part thereof, and the official assignee shall thereupon have such of the powers conferable on a receiver appointed under the Code of Civil Procedure, 1908, as may be prescribed.

V of 1908.

[Ss. 7 and 17, and 46 & 47 Vict., c. 52.] 17. On the making of an order of adjudication, the property of the insolvent *wherever situated* shall vest in the official assignee * *

and shall become divisible among his creditors, and thereafter, except as directed by this Act, no creditor to whom the insolvent is indebted in respect of any debt provable in insolvency shall, during the pendency of the insolvency proceedings, have any remedy against the property of the insolvent in respect of the debt or shall commence any suit or other legal proceeding except with the leave of the Court and on such terms as the Court may impose:

Provided that this section shall not affect the power of any secured creditor to realize or otherwise deal with his security, in the same manner as he would have been entitled to realize or deal with it if this section had not been passed.

[Cf. ss. 49, 46 & 47 Vict., c. 52, s. 10 (2).]

18. (1) The Court may, at any time after the making of an order of adjudication, stay any suit or other proceeding pending against the insolvent before any Judge or Judges of the Court or in any other Court subject to the superintendence of the Court.

[46 & 47 Vict., c. 52, s. 11.]

(2) An order made under sub-section (1) may be served by sending a copy thereof, under the seal of the Court, by post to the address for service of the plaintiff or other party prosecuting such suit or proceeding, and notice of such order shall be sent to the Court before which the suit or proceeding is pending.

[46 & 47 Vict., c. 52, s. 10.]

(3) Any Court in which proceedings are pending against a debtor may on proof that an order of adjudication has been made against him under this Act, either stay the proceedings or allow them to continue on such terms as it may think just.

[46 & 47 Vict., c. 52, s. 12.]

19. (1) If in any case the Court, having regard to the nature of the debtor's estate or business or to the interests of the creditors generally, is of opinion that a special manager of the estate or business ought to be appointed to assist the official assignee, the Court may appoint a manager thereof accordingly to act for such time as the Court may authorize, and to have such powers of the official assignee as may be entrusted to him by the official assignee or as the Court may direct.

(2) The special manager shall give security and furnish accounts in such manner as the

Court may direct, and shall receive such remuneration as the Court may determine. * *

20. Notice of every order of adjudication, stating the name, address and description of the insolvent, the date of the adjudication, the Court by which the adjudication is made and the date of presentation of the petition, shall be published in the Gazette of India and in the local official Gazette and in such other manner as may be prescribed. [46 & 47 Vict., c. 52, s. 20.]

Annulment of adjudication.

21. (1) Where, in the opinion of the Court, a debtor ought not to have been adjudged insolvent, or where it is proved to the satisfaction of the Court that the debts of the insolvent are paid in full, the Court may, on the application of any person interested, by order annul the adjudication. [Cf. ss. 8 and 19, and 46 & 47 Vict., c. 52, s. 23.]

(2) For the purposes of this section, any debt disputed by a debtor shall be considered as paid in full, if the debtor enters into a bond, in such sum and with such sureties as the Court approves, to pay the amount to be recovered in any proceeding for the recovery of or concerning the debt, with costs, and any debt due to a creditor who cannot be found or cannot be identified shall be considered as paid in full if paid into Court. [46 & 47 Vict., c. 52, s. 36.]

22. Where it is proved to the satisfaction of the Court that insolvency proceedings are pending in any other British Court whether within or without British India against the same debtor and that the property of the debtor can be more conveniently distributed by such other Court, the Court may annul the adjudication or may stay all proceedings thereon. [III of 1907, s. 17.]

23. (1) Where an adjudication is annulled, all sales and dispositions of property and payments duly made, and all acts heretofore done, by the official assignee or other person acting under his authority, or by the Court, shall be valid, but the property of the debtor who was adjudged insolvent shall vest in such person as the Court may appoint, or, in default of any such appointment, shall revert to the debtor to the extent of his right or interest therein on such terms and subject to such conditions (if any) as the Court may declare by order. [Ss. 7 and 11, 46 and 47 Vict., c. 52, s. 35.]

(2) Where a debtor has been released from custody under the provisions of this Act and the order of adjudication is annulled as aforesaid, the Court may, if it thinks fit, recommit the debtor to his former custody, and the

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jailor or keeper of the prison to whose custody such debtor is so recommitted shall receive such debtor into his custody according to such recommitment, and thereupon all processes which were in force against the person of such debtor at the time of such release as aforesaid shall be deemed to be still in force against him as if such order had not been made.

(3) Notice of the order annulling an adjudication shall be published in the Gazette of India and in the local official Gazette and in such other manner as may be prescribed.

Proceedings consequent on order of adjudication.

[Ss. 6 and 12; and 46 & 47 Vict., c. 52, s. 16.]

24. (1) Where an order of adjudication is made against a debtor, he shall prepare and submit to the Court a schedule verified by affidavit, in such form and containing such particulars of and in relation to his affairs as may be prescribed.

(2) The schedule shall be so submitted within the following times, namely:—

(a) if the order is made on the petition of the debtor, within * thirty days from the date of the order,

(b) if the order is made on the petition of a creditor, within * thirty days from the date of service of the order.

(3) If the insolvent fails, without reasonable excuse, to comply with the requirements of this section, the Court may, on the application of the official assignee or of any creditor, make an order for his committal to the civil prison.

(4) If the insolvent fails to prepare and submit any such schedule as aforesaid, the official assignee may, at the expense of the estate, cause such a schedule to be prepared in manner prescribed.

[Cf. s. 13.]

25. (1) Any insolvent who shall have submitted his schedule as aforesaid may apply to the Court for protection, and the Court may, on such application, make an order for the protection of the insolvent from arrest or detention.

(2) A protection order may apply either to all the debts mentioned in the schedule or to any of them as the Court may think proper, and may commence and take effect at and for such time as the Court may direct, and may be revoked or renewed as the Court may think fit.

(3) A protection order shall protect the insolvent from being arrested or detained in prison for any debt to which such order shall apply, and any insolvent arrested or detained contrary to the terms of such order shall be entitled to his release:

Provided that no such order shall operate to prejudice the right of any creditor in the event of such order being revoked or the adjudication annulled.

(4) Any creditor shall be entitled to appear and oppose the grant of a protection order, but the insolvent shall be *prima facie* entitled to such order on production of a certificate signed by the official assignee that he has so far conformed to the provisions of this Act.

(5) The Court may make a protection order before an insolvent has submitted his schedule if it thinks it necessary to do so in the interests of the creditors.

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26. (1) At any time after the making of an adjudication order against an insolvent, the Court, on the application of a creditor or of the official assignee, may direct that a meeting of creditors shall be held to consider the circumstances of the insolvency and the insolvent's schedule and his explanation thereof and generally as to the mode of dealing with the property of the insolvent. [53 & 54 Vict. c. 71, s. 5.]

(2) With respect to the summoning of and proceedings at a meeting of creditors the rules in the First Schedule shall be observed.

27. (1) Where the Court makes an order of adjudication it shall hold a public examination of the insolvent. [46 & 47 Vict. c. 52, s. 17.]

(2) The examination shall be held as soon as conveniently may be after the expiration of the time for the filing of the insolvent's schedule.

(3) Any creditor who has tendered a proof or a legal practitioner on his behalf may question the insolvent concerning his affairs and the causes of his failure.

(4) The official assignee shall take part in the examination of the insolvent; and for the purpose thereof, subject to such directions as the Court may give, may be represented by a legal practitioner.

(5) The Court may put such questions to the insolvent as it may think expedient.

(6) The insolvent shall be examined upon oath, and it shall be his duty to answer all such questions as the Court may put or allow to be put to him. Such notes of the examination as the Court thinks proper shall be taken down in writing and shall be read over either to or by the insolvent and signed by him, and may thereafter be used in evidence against him and shall be open to the inspection of any creditor at all reasonable times.

(7) When the Court is of opinion that the affairs of the insolvent have been sufficiently investigated, it shall, by order, declare that his examination is concluded, but such order shall not

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preclude the Court from directing further examination of the insolvent whenever it may deem fit to do so.

[53 & 54 Vict., c. 71, s. 2 (2).] (8) Where the insolvent is a lunatic or suffers from any such mental or physical affliction or disability as in the opinion of the Court makes him unfit to attend his public examination, *or is a woman who according to the customs and manners of the country ought not to be compelled to appear in public*, the Court may make an order dispensing with such examination, or directing that the insolvent be examined on such terms, in such manner, and at such place as to the Court seems expedient.

Composition and schemes of arrangement.

[53 & 54 Vict., c. 71, s. 3, Act III of 1907, s. 27.] 28. (1) An insolvent may at any time after the making of an order of adjudication submit a proposal for a composition in satisfaction of his debts or a proposal for a scheme of arrangement of his affairs in the prescribed form, and such proposal shall be submitted by the official assignee to a meeting of creditors.

(2) The official assignee shall send to each creditor who is mentioned in the schedule, or who has tendered a proof before the meeting, a copy of the insolvent's proposals with a report thereon, and if on the consideration of such proposal the majority in number and three-fourths in value of all the creditors whose debts are proved resolve to accept the proposal, the same shall be deemed to be duly accepted by the creditors.

(3) The insolvent may at the meeting amend the terms of his proposal if the amendment is in the opinion of the * official assignee calculated to benefit the general body of creditors.

(4) Any creditor who has proved his debt may assent to or dissent from the proposal by a letter, in the prescribed form, addressed to the official assignee so as to be received by him not later than the day preceding the meeting, and any such assent or dissent shall have effect as if the creditor had been present and had voted at the meeting.

[53 & 54 Vict., c. 71, s. 3, Act III of 1907, s. 27.] 29. (1) The insolvent or the official assignee may after the proposal is accepted by the creditors apply to the Court to approve it, and notice of the time appointed for hearing the application shall be given to each creditor who has proved.

(2) Except where an estate is being summarily administered or special leave of the Court has been obtained, the * application shall not be heard until after the conclusion of the public examination of the insolvent. Any creditor who has proved may be heard by the Court in opposition to the application notwithstanding that he may at a meeting of creditors have voted for the acceptance of the proposal.

(3) The Court shall before approving the proposal hear a report of the official assignee as to the terms thereof and as to the conduct of the * insolvent and any objections which may be made by or on behalf of any creditor.

(4) Where the Court is of opinion that the terms of the proposal are not reasonable or are not calculated to benefit the general body of creditors or in any case in which the Court is required to refuse the insolvent's discharge, the Court shall refuse to approve the proposal.

(5) Where any facts are proved on proof of which the Court would be required either to refuse, suspend or attach conditions to the debtor's discharge, the Court shall refuse to approve the proposal unless it provides reasonable security for payment of not less than four annas in the rupee on all the unsecured debts provable against the debtor's estate.

(6) No composition or scheme shall be approved by the Court which does not provide for the payment in priority to other debts of all debts directed to be so paid in the distribution of the property of an insolvent.

(7) In any other case the Court may either approve or refuse to approve the proposal.

* * *

30. (1) If the Court approves the proposal, [Act III of 1907, s. 27.] the terms shall be embodied

Order on approval. in an order of the Court, and an order shall be made annulling the adjudication and the provisions of section 23, sub-sections (1) and (3), shall thereupon apply and the composition or scheme shall be binding on all the creditors so far as relates to any debt due to them from the insolvent and provable in insolvency.

(2) The provisions of the composition or scheme [53 & 54 Vict., c. 71, s. 3, (14).] may be enforced by the Court on application by any person interested, and any disobedience of an order of the Court made on the application shall be deemed a contempt of Court.

31. (1) If default is made in the payment of [53 & 54 Vict., c. 71, s. 3 (15) Act III of 1907, s. 27 (8).] any instalment due in pursuance of any composition or

debtor insolvent. scheme, approved as aforesaid, or if it appears to the Court that the composition or scheme cannot proceed without injustice or undue delay or that the approval of the Court was obtained by fraud, the Court may, if it thinks fit, on application by any person interested, re-adjudge the debtor insolvent and annul the composition or scheme, and the property of the debtor shall thereupon vest in the official assignee but without prejudice to the validity of any transfer or payment duly made or of anything duly done under or in pursuance of the composition or scheme.

(2) Where a debtor is re-adjudged insolvent under sub-section (1) all debts provable in other respects which have been contracted before the date of such re-adjudication shall be provable in the insolvency.

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[46 & 47
Vict., c. 52,
s. 19] 32. Notwithstanding the acceptance and approval of a composition or scheme, the composition or scheme shall not be binding on any creditor so far as regards a debt or liability from which, under the provisions of this Act, the insolvent would not be discharged by an order of discharge in insolvency, unless the creditor assents to the composition or scheme.

Control over person and property of insolvent.

[46 & 47
Vict., c. 52,
s. 24] 33. (1) Every insolvent shall, unless prevented by sickness or other sufficient cause, attend * * * any meeting of his creditors which the official assignee may require him to attend, and shall submit to such examination and give such information as the meeting may require.

[Act III,
1907, s. 43
(2)] (2) The insolvent shall—

- (a) give such inventory of his property, such list of his creditors and debtors, and of the debts due to and from them respectively,
- (b) submit to such examination in respect of his property or his creditors,
- (c) wait at such times and places on the official assignee or special manager,
- (d) execute such powers-of-attorney, transfers and instruments, and
- (e) generally do all such acts and things in relation to his property and the distribution of the proceeds amongst his creditors,

as may be * * * required by the official assignee or special manager or may be prescribed or be directed by the Court by any special order or orders made in reference to any particular case, or made on the occasion of any special application by the official assignee or special manager, or any creditor or person interested.

(3) The insolvent shall aid, to the utmost of his power, in the realization of his property and the distribution of the proceeds among his creditors.

(4) If the insolvent wilfully fails to perform the duties imposed upon him by this section, or to deliver up possession to the official assignee of any part of his property, which is divisible amongst his creditors under this Act and which is for the time being in his possession or under his control, he shall, in

addition to any other punishment to which he may be subject, be guilty of a contempt of Court, and may be punished accordingly.

34. (1) The Court may, either of its own motion or at the instance of the official assignee or of any creditor, by warrant [46 & 47
Vict., c. 52,
s. 25] Arrest of insolvent.

addressed to any police-officer or prescribed officer of the Court, cause an insolvent to be arrested, and committed to the civil prison or if in prison to be detained until such time as the Court may order, under the following circumstances, namely:—

- (a) if it appears to the Court that there is probable reason for believing that he has absconded or is about to abscond with a view of avoiding examination in respect of his affairs, or of otherwise avoiding, delaying or embarrassing proceedings in insolvency against him; or
- (b) if it appears to the Court that there is probable reason for believing that he is about to remove his property with a view of preventing or delaying possession being taken of it by the official assignee, or that there is probable reason for believing that he has concealed or is about to conceal or destroy any of his property or any books, documents or writings which might be of use to his creditors in the course of his * * * insolvency; or
- (c) if he removes any property in his possession above the value of fifty rupees without the leave of the official assignee.

(2) No payment or composition made or security given after arrest made under this section shall be exempt from the provisions of this Act relating to fraudulent preferences.

35. Where the official assignee has been appointed interim receiver [46 & 47
Vict., c. 52, s. 26] of or an order of adjudication is made, the Court, on the application of the official assignee, may, from time to time, order that for such time, not exceeding three months, as the Court thinks fit, all post letters, whether registered or unregistered, parcels and money orders addressed to the debtor * * * at any place or places mentioned in the order for re-direction

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shall be re-directed, or delivered by the Postal
* * authorities in British India, to
the official assignee, or otherwise as the Court
directs; and the same shall be done accordingly.

[S. 26:
46 & 47,
Vict., c. 52,
s. 27.] 36. (1) The Court may, on the application of
the official assignee or of
any creditor who has proved
his debt, at any time after
an order of adjudication has been made, summon
before it in such manner as may be prescribed
the insolvent or any person known or suspected
to have in his possession any property belong-
ing to the insolvent, or supposed to be in-
debted to the insolvent, or any person whom
the Court may deem capable of giving infor-
mation respecting the insolvent, his dealings or
property; and the Court may require any such
person to produce any documents in his custody
or power relating to the insolvent, his dealings
or property.

[S. 36.] (2) If any person so summoned, after having
been tendered a reasonable sum, refuses to
come before the Court at the time appointed,
or refuses to produce any such document, having
no lawful impediment made known to the Court
at the time of its sitting and allowed by it, the
Court may, by warrant, cause him to be appre-
hended and brought up for examination.

(3) The Court may examine any person so
brought before it concerning the insolvent, his
dealings or property, and such person may be
represented by a legal practitioner.

(4) If on the examination of any such person
* the Court is satisfied that he is indebted
to the insolvent, the Court may, on the application
of the official assignee, order him to pay to the
official assignee, at such time and in such man-
ner as to the Court seems expedient, the amount
in which he is indebted, or any part thereof,
either in full discharge of the whole amount or
not, as the Court thinks fit, with or without costs
of the examination.

(5) If, on the examination of any such person,
the Court is satisfied that he has in his pos-
session any property belonging to the insolvent,
the Court may, on the application of the official
assignee, order him to deliver to the official
assignee that property, or any part thereof, at
such time, in such manner and on such terms as
to the Court may seem just.

[S. 36.] (6) Orders made under sub-sections (4) and
(5) shall be executed in the same manner as
decrees for the payment of money or for the
delivery of property under the Code of Civil
Procedure, 1908, respectively.

(7) Any person making any payment or deli-
very in pursuance of an order made under sub-
section (4) or sub-section (5) shall by such pay-
ment or delivery be discharged from all liability
whatsoever in respect of such debt or property.

37. The Court shall have the same [Cf. s. 4.]
powers to issue commis-
sions and letters of request
for the examination on
commission or otherwise of any person liable to
examination under section 36 as it has for the
examination of witnesses under the Code of
Civil Procedure, 1908. [S. 36:
46 & 47,
Vict., c. 52,
s. 27.]

Discharge of Insolvent.

38. (1) An insolvent may, at any time after
the order of adjudication, [S. 36:
46 & 47,
Vict., c. 52,
s. 27.]
Discharge of insol- apply to the Court for an
vent. order of discharge, and the

Court shall appoint a day for hearing the ap-
plication, but, save where the public examina-
tion of the insolvent has been dispensed with
under the provisions of this Act, the application
shall not be heard until after such examination
has been concluded. The application shall be
heard in open Court.

(2) On the hearing of the application, the
Court shall take into consideration any report
of the official assignee as to the insolvent's
conduct and affairs, and, subject to the pro-
visions of section 39, may—

- (a) grant or refuse an absolute order of
discharge, or
- (b) suspend the operation of the order for
a specified time, or
- (c) grant an order of discharge subject to
any conditions with respect to any
earnings or income which may
afterwards become due to the in-
solvent, or with respect to his after-
acquired property.

39. (1) The Court shall refuse the discharge
in all cases where the [S. 36:
46 & 47,
Vict., c. 52,
s. 27.]
Court must refuse an insolvent has committed
absolute discharge. any offence under this
Act, or under sections
421 to 424 of the Indian Penal Code, and shall
on proof of any of the facts hereinafter
mentioned, either—

- (a) refuse the discharge; or
- (b) suspend the discharge for a specified
time; or
- (c) suspend the discharge until a dividend
of not less than four annas in the
rupee has been paid to the creditors;
or